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NEW YORK SOCIETY FOR THE PREVENTION
OF CRUELTY TO CHILDREN.

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MANUAL

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NEW YORK SOCIETY FOR THE PREVENTION OF CRUELTY TO CHILDREN.

COMPRISING

THE PROVISIONS OF THE PENAL CODE, THE CODE
OF CRIMINAL PROCEDURE AND OF OTHER
STATUTES RELATING TO CHILDREN,

WITH

APPROPRIATE FORMS AND REFERENCES.

PREPARED BY .

JOHN B. PINE,

ATTORNEY FOR THE SOCIETY.



PUBLISHED BY THE SOCIETY.

1884.

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BAKER & GODWIN, PRINTERS,
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MANUAL

OF THE

NEW YORK SOCIETY FOR THE PREVENTION OF CRUELTY TO CHILDREN.

PENAL CODE.

Age of Child.

SECTION 18. A child under the age of seven years is not capable of committing crime.

Conclusive presumption.—An infant under seven years of age is conclusively presumed incapable of committing crime. 2 *Greenleaf's Evidence*, § 4; 1 *Wharton's Crim. Law*, § 67; *The People v. Townsend*, 3 *Hill*, 479.

Determination of Age.

§ 19. A child of the age of seven years, and under the age of twelve years, is presumed to be incapable of crime; but the presumption may be removed by proof that he had sufficient capacity to understand the act or neglect charged against him, and to know its wrongfulness. Whenever in any legal proceeding it becomes necessary to determine the age of a child, the child may be produced for personal inspection, to enable the magistrate, court, or jury, to determine the age thereby; and the court or magistrate may direct an examination by one or more physicians, whose opinions shall also be competent evidence upon the question of age.

Amendment.—The above section reads as amended by chapter 46 of the Laws of 1884, which incorporated section 1 of chapter 340 of the Laws of 1882, providing that

“Whenever in any proceeding or trial it becomes necessary to determine the age of a child, such child may be produced and exhibited,

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to enable the magistrate, court, or jury, to determine its age by a personal inspection; and such court or magistrate may direct an examination by one or more physicians, whose opinion shall also be competent evidence upon the question of such age."

Determination of age.—The act of 1882 confers upon the magistrate the power to determine the age of the child by personal inspection, and he is not obliged to direct an examination by a physician for that purpose. *Matter of Serafino*, Supreme Court, Chambers, Lawrence, J., *Daily Register*, Dec. 13, 1883. The court has the right to rely upon its own judgment as to a child's age. *The People v. Bardo Cardillo*, *N. Y. General Sessions*, Opinion by the Recorder, January 20, 1883; *Reg. v. Viasani*, Opinion by Cockburn, C. J., 31 *Justice of the Peace*, 260; *State v. Arnold*, 13 *Ired.* 184.

Evidence as to age.—"An entry in a family bible has been considered to derive credit from the circumstances of its being entered in a book which is kept as the ordinary register of families, and as admissible therefore on account of its publicity in the family, without proofs that such entry was made by a member of the family. But memoranda inserted in other books, as an album, a missal, prayer-book, and any other family documents and papers, have been admitted in evidence to show the fact of date of the birth, marriage, or death of a child or other relative of the family. This latter class of entries, however, should be shown either to have been acknowledged or treated by the relatives as a correct family memorial; or, in the case of ancient writings at least, that they were made at the period when they purport to have been written." *Phillip's Evidence*, vol. I, p. 255; *Greenleaf's Evidence*, § 104, p. 119. An infant may testify as to his own age. *Banks v. Metcalf*, 1 *Wheel. Cr. Ca.* 381.

Copies of records and papers are presumptive evidence when duly certified.—See *N. Y. Code of Civ. Pro.* § 933; also *U. S. R. S.* 2d ed. 1878, §§ 905, 906.

Presumption of incapacity.—The common law presumes an infant under fourteen incapable of committing crime, but this presumption is only *prima facie*. *The People v. Davis*, 1 *Wheel. C. C.* 230; *The People v. Teller*, *Id.* 231; *The People v. Randolph*, 2 *Park. Cr.* 174; *The People v. Walker*, 5 *City Hall Record*, 127; *Stage's Case*, *Id.* 177; *Barb. Crim. Law*, 567.

Of what offenses infants may be convicted.—Murder. *Rex v. York*, 1 *Leading Crim. C.* 71. Rape, if it is proved that he has reached the age of puberty, and is capable of committing the crime. *The Commonwealth v. Green*, 2 *Pick.* 380. Felony. *Angelo v. The People*, 36 *Am. R.* 132. Breach of the peace. *Bullock v. Babcock*, 3 *Wend.* 391. False pretences. *The People v. Kendall*, 25 *Wend.* 399.

Evidence sufficient to convict.—To convict an infant of a felony the strongest and clearest proof of his capacity to entertain a criminal intent is necessary. *Angelo v. The People*, 96 *Illinois*, 209; *s. c.* 36 *Am. Rep.* 132; *Reg. v. Vamplew*, 3 *Fost. & F.* 520.

Capacity.—The question of capacity to know good from evil is one of fact for the jury. *The People v. Davis, supra*; *The People v. Walker, supra*; *Stage's Case, supra*.

Confessions.—Confessions of an infant, otherwise competent, are admissible against him in the same manner as confessions of adults, if the *corpus delicti* be otherwise proved. *Reg. v. Reeve, 12 Cox's Crim. C. 179.*

Children as witnesses.—Wherever there is intelligence enough to observe and narrate, there a child, having a due sense of the obligation of an oath, can be admitted to testify. *Wharton's Crim. Ev.* 8th ed. § 266; *The People v. McGee, 1 Denio, 19*; *1 Chit. Cr. Law, Riley's ed. 481*; *Barb. Crim. Law, 421.*

Kidnapping.

§ 211. A person who willfully—

1. Seizes, confines, inveigles, or kidnaps another, with intent to cause him, without authority of law, to be secretly confined or imprisoned within this State, or to be sent out of the State, or to be sold as a slave, or in any way held to service or kept or detained, against his will [Form No. 1]; or

Intent.—It is the inveigling with *intent* to sell, or to cause the person inveigled to be imprisoned, etc., which constitutes the crime. It is sufficient if the intent be conceived within the State though the act be committed without the State. *The People v. Merrill, 2 Park. Cr. 590*; *s. c. 14 N. Y. 75*. Where a seaman is forcibly or fraudulently taken on shipboard with the intent and expectation that he will be carried out of the State, the offense is complete, even though the ship be not, in fact, destined to leave the State. *Hadden v. The People, 25 N. Y. 373*; *Thompson's Case, 2 City H. Rec. 120.*

The *intent* is assumed from the act itself. *People v. Tinsdale, 10 Abb. Pr. R. N. S. 374.* It need not be averred or proven. *Nutt v. The State, 19 Texas, 340*; *Manes v. The State, 20 Id. 38*; *Commonw. v. Brooks, 9 Gray (Mass.), 299.* When an act is in itself illegal the law presumes evil intention. *State v. Council, 1 Overton (Tenn.), 305*; *People v. Brunell, 18 How. Pr. R. 435, 443, in point.* "It is a universal principle that when a man is charged with doing an act of which the probable consequence may be highly injurious, the *intention* is an inference of law resulting from the doing of the act. And although he may have had another object in view, he must be taken to have intended that which is the natural consequence of the act." Lord Ellenborough, in *Rex v. Dixon, 3 Maule & Sel. 11.*

Inveigle.—To persuade to something bad; to wheedle; to entice; to seduce; to beguile. *Webster's Unabridged Dictionary.* To en-

tice is to allure to ill; to attract; to lure, to draw by blandishments or hopes; to decoy; to tempt; to seduce; to coax. *Same.* Where Italian children were induced to consent to come to America, by being told of the "beautiful things of America;" that they would make plenty of money, etc., and thereupon such children came to America, held, that they had been inveigled. *The United States v. Ancarola*, 1 *Fed. Rep.* 676. The process of inveigling or enticing may be the work of time. *Carpenter v. The People*, 8 *Barb.* 601. Mere persuasion without violence may amount to inveiglement. *Kauffman v. The People*, 11 *Hun*, 82.

Procuring intoxication.—Procuring the intoxication of a sailor, with intent to take him on board ship without his consent, and taking him on board ship, is kidnapping; and it is immaterial whether the person charged with the offense did the acts in person, or caused them to be done. *Hadden v. The People*, page 5, *supra*.

Arrest without warrant.—An arrest of a person within this State, by a private individual, without warrant, for the purpose of taking such person without the State, and followed by such abduction, constitutes a kidnapping under the act. *Mandeville v. Guernsey*, 51 *Barb.* 99.

Kidnapping Child.

2. Leads, takes, entices away, or detains a child under the age of twelve years, with intent to keep or conceal it from its parent, guardian, or other person having the lawful care, or control thereof, or to extort or to obtain money or reward for the return or disposition of the child, or with intent to steal any article about or on the person of the child [Form No. 2]; or

Taking.—As to what constitutes a taking, see authorities cited under preceding subdivision, also under § 282, pages 7 and 8, *infra*.

Force not necessary.—It is not necessary that force, constraint, or ill usage should be exercised to constitute kidnapping. *The State v. Rollins*, 8 *N. H.* 550. It is enough to show that the mind of the person taken was operated upon by falsely excited fears, etc., and the age and condition of the person kidnapped should be considered. *Moody v. The People*, 20 *Ill.* 315.

Kidnapping.

3. Abducts, entices, or by force or fraud unlawfully takes or carries away another, at or from a place without the State, or procures, advises, aids, or abets such an abduc-

tion, enticing, taking or carrying away, and afterwards sends, brings, has, or keeps such person, or causes him to be kept or secreted within this State [Form No. 3];

As to persons of foreign birth.—See “The Padrone Law,” pages 36 and 37, *infra*.

Is guilty of kidnapping, and is punishable by imprisonment for not more than fifteen years.

Abduction of Female under Sixteen.

§ 282. A person who—

1. Takes a female under the age of sixteen years, for the purpose of prostitution or sexual intercourse, or without the consent of her father, mother, guardian, or other person having legal charge of her person, for the purpose of marriage [Form No. 4]; or

What constitutes a “taking” under the statute.—Where an act provides (9 *Geo.* 4, c. 31, § 20) that any person who shall take an unmarried female, under the age of sixteen years, out of the possession and against the will of her father shall be guilty of a misdemeanor, held, that wherever a man and a girl within the statutory age go away together from the house and possession of the girl’s father, there is a taking away on the part of the man, though he act at the girl’s suggestion, and with her consent. *Queen v. Biswell*, 2 *Cox’s Crim. C.* 279. No force, actual or constructive, need be used. *Reg. v. Monkeltow*, 6 *Cox’s Crim. C.* 143; *Regina v. Kipps*, 4 *Cox’s C. C.* 167. And though he take her with the intention of permitting her to return in a short time. *Regina v. Timmins*, 8 *Cox’s C. C.* 401.

Under chapter 105 of the Laws of 1848 (N. Y.), held, that the term “takes away” does not mean an actual manual caption or personal assistance or force, but a person comes within the act who in any manner aids or assists the female in going away for the purpose mentioned in the act. *Carpenter v. The People*, 8 *Barb.* 603. But a positive act to get the female away from the person having the legal charge of her in order to introduce her to an indiscriminate criminal intercourse with men, constitutes the offense. *The People v. Parshall*, 6 *Park. Cr.* 129.

Under the Illinois statute, similar to the above, when a girl, living with her parents, was persuaded or enticed to go to some convenient place from her father’s house, in the immediate neighborhood, for the purpose of prostitution, where she remained only for an hour or two at a time and continued to live with her father, held, that such persuasion or inducement constituted an abduction; that, if such inducements were offered as led the girl to leave her home, that the

taking was complete ; that the purpose of the taking, contemplated by the statute, is one existing in the mind of the perpetrator of the offense, and need not be known to the victim. *Slocum v. The People*, 90 *Ill. R.* 274.

Where a girl went to a house, not knowing it to be a house of prostitution, and was there detained by threats, and by the door being kept locked, held, that such acts constituted a taking under the statute, though no personal violence was used ; and that the intent could be inferred from the end attained. *Beyer v. People*, 86 *N. Y.* 369 ; *Schnicker v. People*, 88 *N. Y.* 192. See also authorities cited under § 211.

Purpose or intent.—See cases cited under sec. 211, page 5.

Purpose of prostitution.—Indiscriminate intercourse with men is here meant. 1 *American Cr. R.* 25 ; *State v. Ruhl*, 8 *Clarke (Iowa)*, 447, 453 ; *The State v. Stoyell*, 54 *Me.* 24. But evidence of actual prostitution, or of force, duress, or menace is not necessary. *Kauffman v. The People*, 11 *Hun*, 82.

Persons having legal charge of her person.—These are the persons with whom she resides as a member of the family, and who have her wholly under their care and protection. *The State v. Ruhl*, *supra*.

Abduction of Unmarried Female.

2. Inveigles or entices an unmarried female under the age of twenty-five years, of previous chaste character, into a house of ill-fame or of assignation, or elsewhere, for the purpose of prostitution or sexual intercourse [Form No. 5] ; or

As to what constitutes inveigling.—See authorities collected under sec. 211, subd. 1, pages 5 and 6.

Recommending female to house of prostitution.—Held to be a misdemeanor at common law, if done knowingly, and indictable as such. *Wittenburgh's Case*, 8 *City Hall Rec.* 49. Held, also, to come within a statute prohibiting the taking of a female for purposes of prostitution. *The People v. Cook*, 61 *Cal.* 478.

Unmarried female.—The evidence of the female enticed, that she was unmarried at the time, is sufficient *prima facie* proof to bring a case within the statute. *The People v. Kenyon*, 5 *Park. Cr.* 254, 289.

Previous chaste character.—To sustain an indictment actual chastity must be shown. General reputation for unchastity is not admissible. Lack of chastity can only be shown by proof of specific acts. *Kenyon v. The People*, 26 *N. Y.* 203 ; *Kauffman v. The People*, 11 *Hun*, 82. She must be shown to have been actually chaste up to the commencement of the acts of the party accused. *Carpenter v. The People*, 8 *Barb.* 601.

What constitutes a house of ill-fame.—It is sufficient if it be shown that the house is open promiscuously to the public, and is resorted to for purposes of prostitution. The keeping of a common bawdy or gambling house constitutes the house so kept a disorderly house and an indictable nuisance at common law. It is not an essential element that it should be so kept as to disturb the neighborhood by noise, or that the immoral practices should be open to public observation. If the house is the resort of prostitutes plying their vocation there, it is a bawdy house. *Barnesciotta v. The People*, 10 *Hun*, 137; affirmed, 69 *N. Y.* 612; *King v. The People*, 83 *N. Y.* 587; affirming *The People v. King*, 23 *Hun*, 148; *Jacobowsky v. The People*, 6 *Hun*, 524; aff'd, 64 *N. Y.* 659.

Abduction by Force.

3. Takes or detains a woman unlawfully against her will, with the intent to compel her by force, menace, or duress, to marry him, or to marry any other person, or to be defiled [Form No. 6]; or

As to what constitutes a taking.—See authorities cited under subdivision one of this section, pages 7 and 8.

Consent to Abduction.

4. Being parent, guardian, or other person having legal charge of the person of a female under the age of sixteen years, consents to her taking or detaining by any person for the purpose of prostitution or sexual intercourse [Form No. 7];

Amendment.—Section 2, chapter 46, Laws 1884, amends this section by adding subdivision 4 as above. See authorities cited under preceding subdivisions, pages 7, 8 and 9.

Is guilty of abduction, and punishable by imprisonment for not more than five years, or by a fine of not more than one thousand dollars, or by both.

Abandonment of Child.

§ 287. A parent, or other person, having the care or custody, for nurture or education, of a child under the age of six years, who deserts the child in any place, with intent wholly to abandon it, is punishable by impris-

onment in a State prison for not more than seven years, or in a county jail for not more than one year [Form No. 8].

See Penal Code, § 291, subd. 2, as to abandoned child, page 16; also § 288, *infra*, as to omission to furnish food, etc.; also § 289, as to endangering life, etc., of child, page 12.

Person having the custody.—Any person having the charge of the house and household where the child dwells comes within the statute; so held of an officer of a corporation. *Cowley v. The People*, 83 *N. Y.* 464.

Abandonment.—If one exposes or abandons a child, incapable of taking care of itself, to cold or wet, whereby it receives an injury, or if he neglects to furnish suitable food and clothing, he is indictable at common law for a misdemeanor; or, if the child dies, for a felonious homicide. *Bishop's Criminal Law*, 7th ed. vol. 1, §§ 557, 883, and authorities there cited; *Wharton's Criminal Law*, 8th ed. vol. 1, § 331; *The Queen v. Renshaw*, 2 *Cox's Cr. Cas.* 285. Abandonment is not a continuous act, but the offense is complete when the separation takes place. *Bayne v. The People*, 14 *Hun*, 181.

Intent.—The intent wholly to abandon the child is what constitutes the crime. This intent must, therefore, be proved, either by direct evidence or circumstances. *Barb. Crim. Law (N. Y.)*, 131.

Omission to furnish Food.—Baby Farming.

§ 288. A person who willfully omits, without lawful excuse, to perform a duty by law imposed upon him to furnish food, clothing, shelter, or medical attendance to a minor, is guilty of a misdemeanor [Form No. 9]. Any person, other than a duly incorporated institution, who receives, boards, or keeps more than two foundlings, abandoned or homeless children under the age of twelve years, not his relatives, apprentices, pupils, or wards, without legal commitment, or without having first obtained a license in writing so to do from a member of the State Board of Charities, or from the Mayor or Board of Health of the city or town wherein such children are received, boarded, or kept, is guilty of a misdemeanor [Form No. 10]. Such license must specify the name and age of the

child, and the name and residence of the person so undertaking its care, and shall be revocable at will by the authority granting it. It shall be lawful for the officers of any incorporated society for the prevention of cruelty to children, at all reasonable times, to enter and inspect the premises wherein such child is so boarded, received, or kept.

Duty imposed by law.—It is the duty of a parent by common law and statute to maintain his child until the latter reaches the age of twenty-one. Criminal Code, § 921; *Rex v. Chandler*, 1 *Jur. (N. S.)* 429; *Cromwell v. Benjamin*, 41 *Barb.* 558.

Stranger, when liable.—One who, with no natural or legal duty, voluntarily seeks and assumes the care and custody of a child, is amenable to the statute if he fails to perform the duty required, to the injury of the child. *The People v. Cowley*, 83 *N. Y.* 464.

Lack of means.—Where the parents or persons having the custody of the child have not the means of support, it is their duty to surrender the child to the proper authorities, and for a failure to do so they are liable as for a violation of the statute. *Reg. v. Mabbet*, 5 *Cox's Crim. Cases*, 339; *The People v. Cowley*, *supra*.

Neglect to supply food, etc.—The father and mother of a child are criminally liable for willfully neglecting to provide a child with proper clothing, food, meat, and drink. *Reg. v. Ryland*, 10 *Cox's Cr. Ca.* 569; *Reg. v. Mabbett*, *supra*.

To render a person liable for failure to supply food to a child, some duty must be shown, or the situation of the parties must be such as to create an obligation, as, where a child is imprisoned by a third person, such person is bound to furnish food. *Reg. v. Edwards*, 8 *Car. & Payne*, 611.

Where a person willfully withholds necessary food from a child, with the intention of causing death, and death ensues, such person is guilty of murder. Where a person has the means to supply a child with necessities, and negligently, though not willfully, withholds such food, and the child dies, such person is guilty of manslaughter. *Reg. v. Conde*, 10 *Cox's Cr. Ca.* 547.

Neglect to supply medical aid.—Under the statute (31 and 32 Vict. c. 122, § 37) which makes it an offense for any parent willfully to neglect to provide medical aid for his child, being in his custody, and under the age of fourteen years, whereby the health of such child shall have been or is likely to be seriously injured, it is manslaughter if the child die from such neglect; and it is no answer to the charge of manslaughter that the parent so neglected from a conscientious religious belief that it was wrong to call in medical aid.

and that medical aid was not required, and not from any intention to disobey the law. *Reg. v. Downes*, 13 *Cox's Cr. Ca.* 111.

Willful neglect.—To render a neglect of duty by a public officer willful within the statute, it is only necessary that it should appear to be intentional, and it is no defense that the officer believed he was not bound to do the act. *The People v. Brooks*, 1 *Denio*, 457; to same effect, *Gardner v. The People*, 62 *N. Y.* 299. When a duty is imposed on a body composed of several persons, each is individually liable for a breach of the duty, and it is sufficient, in an indictment, to charge willful neglect without adding corruption. *The King v. Holland*, 5 *Durn. & East*, 607.

Baby farming.—The provisions of the section relating to the receiving, boarding, and keeping of children, are a re-enactment of chapter 40 of the Laws of 1883.

Removal of children improperly detained.—Laws of 1878, chapter 404, § 2, authorizes such removal on complaint of State Board of Charities.

Endangering Life or Health of Child.

§ 289. A person who, having the care or custody of a minor, either

1. Willfully causes or permits the minor's life to be endangered, or its health to be injured, or its morals to become depraved [Form No. 11]; or

2. Willfully causes or permits the minor to be placed in such a situation, or to engage in such an occupation, that its life is endangered, or its health is likely to be injured, or its morals likely to be impaired [Form No. 12];

Is guilty of a misdemeanor.

This section is substantially the same as section 4 of chapter 112 of the Laws of 1876, entitled "An Act to prevent and punish wrongs to children.

Construction of the Act of 1876.—*The People v. Cowley*, 21 *Hun*, 415; aff'd, 83 *N. Y.* 464.

Custody.—An officer of an institution, having the general management thereof, and of the children therein, is deemed to have the custody of such children under the act. *People v. Cowley*, *supra*; *State v. Ruhl*, 8 *Iowa*, 447.

So of the keeper of an asylum or prison. *Wharton's Crim. Law*, 8th ed. vol. 1, sec. 333.

Duty of Custodian.—The law imposes upon a person who has a child in his custody the duty of giving him food, clothing, care, and medical attendance, reasonably necessary and proper to keep his life from danger and his health from injury, and if such person has not the means it is his duty to apply to the public authorities, and for failure to do so he is liable, and his liability is the same if the custody of the child is voluntarily assumed by a stranger who, at the time, owes no duty. *People v. Cowley, supra.*

What constitutes neglect.—It is not necessary that an affirmative act should be committed, but it is sufficient if one, having the custody of the child, willfully omit to give it proper and wholesome food, and willfully neglect to provide for and give it, when sick, proper medicine and medical attendance, and by reason of such omissions and neglect the life of the child is endangered or its health injured. *People v. Cowley, supra.*

Duration of neglect.—The statute does not require the offense to be made out by proof of an act on any particular day, and an indictment is good averring the offense on a day specified, and may be sustained by proof of repeated and continuous acts or neglects resulting in the effect condemned by the statute. *People v. Cowley, supra.*

Punishment.—Severe punishment of an innocent child is not justified by the parent's belief that she is guilty. *Matter of Crawford, 3 Monthly Law Bulletin, 51.*

The power which the law grants to school-masters and teachers is analogous to that which belongs to parents, and the authority of the teacher is regarded as a delegation of parental authority. The law allows moderate correction, the welfare of the child being the main purpose. Any punishment which may seriously endanger life, limbs, or health, or shall disfigure the child or cause any other permanent injury, may be pronounced in itself immoderate, as not only being unnecessary for, but inconsistent with, the purpose for which correction is authorized. Where the punishment is not immoderate, the legality must depend on the animus with which it is administered. *The State v. Pendergrass, 2 Devereux & Battle (N. C.), 365 ; The State v. Alford, 78 N. C. 322.*

Endangering life.—Where a child was exposed to the weather, and left alone in a room where a fire was burning, *Held*, that such child's life was thereby endangered. *The People ex rel. Newby v. The N. Y. S. P. C. C., Report of Hon. Nelson J. Waterbury, referee; confirmed by Supm. Ct. Sp. Term, Donohue, J., Daily Register, Mar. 27, 1881.*

Children in Theatres, etc.—Games of Chance.

§ 290. A person who admits to, or allows to remain in any dance-house, concert saloon, theatre, museum, or in

any place where wines or spirituous or malt liquors are sold or given away, or in any place of entertainment injurious to health or morals, owned, kept, or managed by him in whole or in part, any child actually or apparently under the age of sixteen years, unless accompanied by its parent or guardian, is guilty of a misdemeanor [Form No. 13]. Any person who shall suffer or permit any such child to play any game of skill or chance in any such place, or in any place adjacent thereto, or to be or remain therein, shall be guilty of a misdemeanor [Form No. 14].

See, also, Penal Code, § 291, as to disposition of child found in dance-house, etc., page 18.

Laws of 1882, chapter 410.—Section 2009. It shall not be lawful for any owner, lessee, manager, agent, or officer of any theatre in the city of New York to admit to any theatrical exhibition, held in the evening, any minor under the age of fourteen years, unless such minor is accompanied by and is in the care of some adult person. Any person violating the provision of this section shall be guilty of a misdemeanor, and shall be liable to a fine of not less than twenty-five dollars nor more than one hundred dollars, or imprisonment for a term not less than ten nor more than ninety days, for each offense. All moneys recovered under the provisions of this section, for fines, shall be paid over to the treasurer of the Society for the Reformation of Juvenile Delinquents in the City of New York, for the benefit of such society.

Games of chance or skill.—Chapter 46 of the Laws of 1884 amended this section as above by adding the provisions therein contained as to the playing of games of chance or skill by children, thereby re-enacting section 2 of chapter 496 of the Laws of 1881.

Manager.—When the name of a person appeared on signs on the walls of a concert saloon as “manager,” and where such person was seated at a desk and gave directions, *Held*, that such facts constituted him the manager of the place within the act. *The People v. Geoghegan*, *Supm. Ct. Sp. Term*, Barrett, J., Apr. 25, 1883.

Children Under Sixteen.

§ 291. Any child actually or apparently under the age of sixteen years who is found:

Amendment.—Laws of 1884, chapter 46, section 5, amended this section as above by making the age sixteen years in all cases.

Begging, Gathering Rags, etc.

1. Begging or receiving or soliciting alms, in any manner or under any pretense; or gathering or picking rags, or collecting cigar stumps, bones, or refuse from markets [Form No. 15]; or

See Penal Code, § 292, as to persons employing, etc., children to beg, page 23.

What constitutes begging.—Where the evidence showed that a boy, a cripple, was seen on the public street holding out his hand to several persons, and receiving money, *Held*, that such acts constitute “begging alms” under 2 R. S. p. 837, sec. 4, relating to “any child found begging for alms,” etc., though no spoken words are proved. *Matter of Haller*, 12 *Hun*, 131.

Gathering rags, etc.—Chapter 46 of the Laws of 1884 amended this subdivision, as above, by adding the provisions therein contained as to gathering rags, etc., thereby re-enacting section 1 of chapter 496 of the Laws of 1881.

Collecting cigar stumps, etc.—The collecting of cigar stumps or refuse, whether from markets or other places, is within the act. *People ex rel. Coreado v. Catholic Protectory*, *Supm. Ct. Chambers*, Lawrence, J., Mar. 27, 1882. To same effect, *Matter of Allegi*, *Supm. Ct. Chambers*, Bartlett, J., *Daily Reg.*, Aug. 22, 1884.

Permitting child to collect cigar stumps, etc.—Chapter 428, Laws of 1877, sec. 2, as amended by chapter 496, Laws of 1881, reads as follows:

§ 3. Every person having the custody of any child under the age of fourteen years, who shall permit or neglect to restrain such child from begging, gathering, picking, or sorting rags, or from collecting cigar stumps, bones, or refuse from markets, shall be guilty of a misdemeanor [Form No. 34]. And any such child found engaged in any such occupation or business may be arrested and dealt with as hereinafter provided. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished with a fine of not less than twenty-five dollars nor more than one hundred dollars.

Homeless and Abandoned Children.

2. Not having any home or other place of abode or proper guardianship; or who has been abandoned or improperly exposed or neglected, by its parents or other person or persons having it in charge, or being in a state of want or suffering [Form No. 16]; or

See also § 287 of Penal Code as to abandonment of child, page 9 ; also § 288 of Penal Code, as to neglect to supply food, clothing, etc., page 10.

Abandonment under Laws of 1882, ch. 410.—§ 1463. If any child be found in a state of want and suffering, or being abandoned or improperly exposed, or neglected by its parents, or such other person as may have it in charge, or begging for alms, or soliciting charity from door to door, or in any street, highway, or public place within the city, the recorder or any police justice shall, on complaint and competent proof thereof, commit such child to the almshouse or other place provided for the support of the poor, to be kept employed and instructed in useful labor, until discharged by the commissioners of charities and correction, or until bound out by said commissioners as an apprentice by them; and the aforesaid provisions shall extend to the children of all such persons as may be convicted of being common prostitutes, or keepers of bawdy-houses or houses for the resort of common prostitutes.

See § 291, subd. 5, Penal Code, page 18; also Laws of 1884, chapter 438, sec. 2 (cited in full at pages 38 and 39, *infra*), as to place of commitment.

Abandonment and exposure.—As to what constitutes, see authorities cited under §§ 287 and 288 of Penal Code, pages 9 and 10; also Laws of 1882, chapter 410, § 1463, *supra*.

Proper guardianship.—Where a young child lived for some years with a woman who neglected to provide proper food, clothing, care, and amusement, and endangered his health by exposing him to the weather and by leaving him alone for hours, though no physical violence was used, *Held*, that such child was without proper guardianship. The People *ex rel.* Newby *v.* The N. Y. S. P. C. C., Report of Hon. Nelson J. Waterbury, Referee; confirmed by Supreme Court, Special Term, Donohue, J., *Daily Register*, March 27, 1884.

Children of Vicious Parents.

3. Destitute of means of support, being an orphan, or living or having lived with or in custody of a parent or guardian who has been sentenced to imprisonment for crime, or who has been convicted of a crime against the person of such child, or has been adjudged an habitual criminal [Form No. 17]; or

Destitute of means of support.—A destitute child should be surrendered to the proper authorities. People *v.* Cowley, 83 *N. Y.* 464.

Habitual Criminals.—See § 510, Code of Criminal Procedure, and § 690, Penal Code.

Children in Houses of Prostitution, Theatres, etc.

4. Frequenting or being in the company of reputed thieves or prostitutes, or in a reputed house of prostitution or assignation, or living in such a house either with or without its parent or guardian [Form No. 18], or being in concert saloons, dance-houses, theatres, museums, or other places of entertainment, or places where wines, malt or spirituous liquors are sold, without being in charge of its parent or guardian [Form No. 19]; or playing any game of chance or skill in any place wherein or adjacent to which any beer, ale, wine, or liquor is sold or given away, or being in any such place [Form No. 20]; or

See, also, § 290, Penal Code, as to persons allowing minors to remain in theatres, etc., page 13.

Female under sixteen detained for purposes of prostitution.—See Laws 1881, chapter 496, § 3.

Section 3. Upon complaint under oath or affirmation to any magistrate authorized to issue warrants in criminal cases, if in the judgment of said magistrate, that the complainant has just and reasonable cause to suspect that any female child under the age of sixteen years is living or detained or kept in any house or place for the purposes of prostitution, such magistrate shall immediately issue and deliver a warrant to any person authorized by law to make arrests, authorizing him to enter and search such house or place, and to arrest and bring any such child found therein, together with any person occupying such house or place, or in charge thereof, before such magistrate of competent jurisdiction, to be dealt with according to law [Forms Nos. 21 and 39].

Laws of 1882, ch. 410.—§ 1466. Whenever any female between the ages of fourteen and twenty-one years shall be brought by the police, or shall voluntarily appear before a committing magistrate in the city of New York, charged with being a prostitute, or admitting herself to be such, and professing a desire to reform, and it shall appear that such female has never been an inmate of the penitentiary, such magistrate shall make an order that, in lieu of being committed to the workhouse or penitentiary, the said female shall be removed to and detained in one of the following institutions, viz.: the Protestant Episcopal House of Mercy, New York, the Roman Catholic House of the Good Shepherd, foot of 89th street, or the Magdalen Female Benevolent Asylum and Home of Fallen Women, provided that the magistrate shall designate in such order as the place of detention such

one of the institutions above named as may be selected by the person so committed, unless notice shall have been received from such institution that there is not room for the reception of further inmates.

Games of chance or skill.—Chapter 46 of the Laws of 1884 amends this subdivision by adding the provisions therein contained as to the playing of games of chance or skill by children, thereby re-enacting § 2 of chapter 496 of the Laws of 1881.

Prohibited Employments.

5. Coming within any of the descriptions of children mentioned in section two hundred and ninety-two,

[Information against child employed as an acrobat, etc., Form No. 22.]

[Information against child employed as a singer or musician, Form No. 23.]

See § 292, Penal Code, pages 22 *et seq.*

Commitment of Children.

must be arrested and brought before a proper court or magistrate, as a vagrant, disorderly or destitute child. Such court or magistrate may commit the child to any charitable, reformatory, or other institution authorized by law to receive and take charge of minors, or may make any disposition of the child such as now is or hereafter may be authorized in the cases of vagrants, truants, pauper or disorderly persons [Commitment, Form No. 40]. And no commitment of a child which shall recite therein the facts upon which it is based shall be deemed invalid by reason of any neglect or omission by the court or magistrate by whom such commitment is made to file any documents, papers, or proceedings relating thereto.

See also § 713, Penal Code, page 30, *infra*, as to place of committal.

Constitutionality.—Vagrancy acts, and acts for the prevention and punishment of wrongs to children declared to be constitutional. *Matter of Forbes*, 4 *Park. C. R.* 611; *Duffy v. The People*, 1 *Hill*, 355; s. c. 6 *Hill*, 75; *Matter of Donohue*, 1 *Abb. N. C.* 1.

Intention of the law.—"The intention of the law is not to punish such children, but to protect and provide for their necessities

with tender care, and it would be a great mistake to hold that the statute does not include such, as by reason of their appalling misfortunes, need do nothing but silently attract attention to themselves to receive gifts of charity, unasked for in words, but really solicited by far more touching appeals. The poor boy in this case, while creeping through the throng of people on Broadway and Wall street, and raising his hand to receive their alms, was accomplishing the purpose of begging in a mode far more effective than to have sat at a corner and cried out to every passer by for charity." Matter of Haller, 12 Hun, 131.

"The amendment of 1881 does not, in my judgment, change the protection to children. That the General Term has held the act to be. So far as taking from the parent possession of the child is concerned, I know nothing in the law to prevent the Legislature from making the child of age at any year, and certainly the greater includes the less, and they can make the child the subject of protection at all ages. Writ dismissed and child remanded." Matter of Delamega; also, Matter of Mazzoni, Donohue, J., Supreme Court, Chambers, *Daily Register*, September 28, 1881.

Vagrancy acts are in the nature of public regulations to prevent crime and public charges and burdens, rather than of the nature of ordinary criminal laws prohibiting and punishing an act or acts as a crime or crimes; if the condition of a person brings him within the description of the statute, he may be convicted and imprisoned, whether such a condition is his misfortune or his fault. Matter of Forbes, *supra*.

Proper court or magistrate.—In New York city police justices have jurisdiction under this act. Matter of Moses (Gen. Term), 13 Abb. N. C. 189; s. c. *N. Y. Crim. Reports*, 508; Matter of Fina, Supreme Court, Chambers, Lawrence, J., *Daily Reg.*, September 27, 1881.

Notice to parents.—In the case of children committed under this act notice to parents is not necessary. People *ex rel.* Lopardo v. Catholic Protectory (and three other cases), Supreme Court, Chambers, Cullen, J., 61 How. Pr. 445. To same effect, Matter of Fina, *supra*.

Institutions.—The New York Society for the Prevention of Cruelty to Children is authorized by law to receive children on commitment. Chapter 112, Laws 1875. Matter of Kieley, Com. Pleas, Spec. Term, 1 *Monthly Law Bulletin*, 74; Matter of Donohue, Supreme Court, Chambers, 1 Abb. N. C. 1; The People *ex rel.* Newby v. N. Y. S. P. C. C., *supra*. Particulars as to other institutions located in New York city, which receive on commitment, will be found in Appendix, pages 77-80, *infra*.

Commitment.—Where a commitment recited, in substance, that certain children, being under the age of fourteen, were charged, under oath, with being vagrants, viz., "engaged in the occupation of begging under the pretext of peddling, and of frequenting the company of prostitutes," etc., at a time and place named; that the magistrate

caused such persons to be brought before him for examination, and proceeded to inquire into the matter; and thereupon, having read the proofs and considered the matter, convicted such children of being vagrants and committed them to the House of Refuge. *Held*, that the offenses were sufficiently charged; that the commitment was regular on its face, and that the facts were sufficiently stated and gave the magistrate jurisdiction. *Matter of Moses*, 1 *N. Y. Crim. R.* 508; s. c. 13 *Abb. N. C.* 189.

When a statute gives a precise definition of vagrancy, the magistrate must follow it, and insert it in the warrant of commitment, if he determines the individual to be a vagrant and attempts to state the facts which constitute vagrancy; otherwise the commitment is void. *Matter of Forbes*, 19 *How. Pr.* 457.

It is not necessary that the warrant should contain the names of the witnesses or the testimony given by them; it is sufficient if it contain a brief statement of the offense charged, and the conviction and judgment thereon. *People v. Neilson*, 16 *Hun*, 214.

A commitment for vagrancy should state that the person is a vagrant, but need not state all the particulars necessary to make out the offense. *Matter of Gray*, 11 *Abb. Pr.* 56; *People v. Moore*, 3 *Park. Cr.* 465; *Matter of Hogan*, 55 *How. Pr.* 458.

Commitment to House of Refuge.—It is not necessary that the commitment of a juvenile offender to the House of Refuge in the city of New York should specify the period of imprisonment; for this is fixed by the statute. *People v. Degnen*, 6 *Abb. Pr. N. S.* 87; s. c. 54 *Barb.* 105.

Commitment a final judgment.—A commitment by a magistrate having jurisdiction is a final judgment under the *habeas corpus* act (sec. 2016, Code of Civil Procedure), and cannot be reviewed. *Matter of Moses*, *supra*; *Matter of Wright*, 29 *Hun*, 357; *Matter of Donohue*, 1 *Abb. N. C.* 1; *People ex rel. Tweed v. Liscomb*, 60 *N. Y.* 559; *People ex rel. Roddy v. N. Y. Juvenile Asylum*, 12 *Abb. Pr.* 92; *Matter of Baker*, 11 *How. Pr.* 418, 425.

Statement of age.—A recital in a commitment of the age of a child is a final adjudication which cannot be inquired into on *habeas corpus*. *The People v. The Superintendent, etc.*, 8 *Abb. Pr. N. S.* 112; *The People v. The Keeper, etc.*, 37 *How. Pr.* 494.

A recital in a commitment that a child is "aged fourteen years," without words of limitation, such as "no more," is sufficient, and establishes the fact that the child is liable under the act. *Matter of Roach* (Gen. Term), 18 *Weekly Dig.* 514.

Erroneous recital.—An erroneous recital of the title of the court making the commitment, will not invalidate the commitment. *Matter of Coughlin*, 62 *How. Pr.* 34.

When magistrate's power is exhausted.—After a person has been convicted under the acts relative to disorderly persons, and a record of conviction has been made up and signed (though not filed),

the committing magistrate has no power to discharge the prisoner, or to take a recognizance. *People v. Duffy*, 5 *Barb.* 205; *People v. Brown*, 23 *Wend.* 47.

Neglect to file papers.—Chapter 46 of the Laws of 1884 amends this subdivision by adding the provisions therein contained as to neglect or omission to file papers, thereby re-enacting part of section 4, chapter 496, Laws of 1881.

Omission to file record of conviction.—The omission to file the certificate was a neglect of duty on the part of the magistrate, which, if willful, would subject him to punishment as for a misdemeanor, but it cannot invalidate the judgment of the Court of Special Sessions held by him. *The People ex rel. Hoey v. Sup't House of Refuge*, Supm. Ct., April, 1860, *MS. opinion*.

It is no longer necessary, in order to sustain a commitment upon a conviction in a Court of Special Sessions in the city of New York, that a record of the conviction should be filed in the county clerk's office. *Matter of Williamson* (1867), Supm. Ct., 3 *Abb. Pr. N. S.* 244.

Child held on Criminal Charge, or as a Witness, etc.

6. Any magistrate having criminal jurisdiction may commit temporarily to an institution authorized by law to receive children on final commitment, and to have compensation therefor from the city or county authorities, any child under the age of sixteen years who is held for trial on a criminal charge [Commitment, Form No. 40]; and may, in like manner, so commit any such child held as a witness [Information, Form No. 24] to appear on the trial of any criminal case [Commitment, Form No. 41]; which institution shall thereupon receive the same and be entitled to the like compensation proportionally therefor as on final commitment, but subject to the order of the court as to the time of detention and discharge of the child. Any such child convicted of any misdemeanor shall be finally committed to some such institution, and not to any prison, or jail, or penitentiary, longer than is necessary for its transfer thereto. No child under restraint or conviction, actually or apparently under the age of sixteen years, shall

be placed in any prison or place of confinement, or in any court-room, or in any vehicle for transportation, in company with adults charged with or convicted of crime, except in the presence of a proper official.

Amendment—Section 5, chapter 46, Laws of 1884, amends sec. 291 of the Penal Code by adding the above subdivision, thereby re-enacting a portion of section 4, chapter 440, Laws of 1881, and the whole of section 4, chapter 428, Laws 1877.

Persons Employing Children.

§ 292. A person who employs, or causes to be employed, or who exhibits, uses, or has in his custody for the purpose of exhibiting or employing, any child apparently or actually under the age of sixteen years [Form No. 25], or who, having the care, custody, or control of such a child, as parent, relative, guardian, employer, or otherwise, sells, lets out, gives away, or in any way procures or consents to the employment or exhibition of such a child [Form No. 26] either,

In Gymnastics, etc.

1. As a rope or wire walker, dancer, gymnast, contortionist, rider, or acrobat [Forms Nos. 25 and 26]; or

Acrobats and gymnasts.—Where three boys, of the respective ages of fourteen, nine and eight years, were employed as gymnasts and acrobats in a circus, *Held*, that such occupation was dangerous, physically and morally; the contortions, evolutions and performance of the acrobat being clearly physically dangerous, and the surroundings, accompaniments and companions of the circus ring equally so morally: *Held*, that such children were properly convicted under chapter 122, Laws 1876 (in substance the same as above section), and properly committed to the New York Society for the Prevention of Cruelty to Children. Matter of Donohue, 1 *Abb. N. C.* 1.

Rope walker.—Where a child was compelled to go through a performance on a tight rope, *Held*, that such performance was dangerous to life and limb, and in violation of the act. *The People v. Leonard, Donohue, J.*, Dec. 11, 1876.

Riding.—Where a boy was employed as a pony rider and rope walker, *Held*, that he came within the act. Matter of Rivers, Donohue, J., May 25, 1877.

In Begging, etc.

2. In begging or receiving alms, or in any mendicant occupation [Forms 25 and 26]; or

See section 291, subd. 1, Penal Code, page 15, *supra*, and authorities there cited.

Permitting child to beg.—See chapter 428, Laws of 1877, sec. 2, as amended; cited in full under § 291, subd. 1, page 15, *supra*.

In Singing or Theatrical Performance, etc.

3. In peddling, singing, or playing upon a musical instrument [Form No. 27], or in a theatrical exhibition, or in any wandering occupation [Forms Nos. 25 and 26]; or

Theatrical exhibition.—Where a child, within the prescribed age, took part in a play performed in a theatre, but did not sing, or dance, or play on a musical instrument, *Held*, that such performance was a theatrical exhibition, and that the person employing her came within the provisions of the statute. *The People v. Aberle, Special Sessions*; aff'd by Hon. Rufus B. Cowing, City Judge, March 27, 1883.

Exhibitions included in the terms opera, farce, interlude, comedy, tragedy, play, ballet, or which are in their nature dramatic, or are entertainments on the stage, or on any part thereof, whether written or not, or whether or not impromptu, given in a public place called the "National Garden," where an admission of ten cents was charged, are theatrical performances within the terms of the statute (ch. 13, L. 1839; ch. 281, L. 1862). *The Society for the Ref. of Juv. Del. v. Diers*, Supm. Ct. Gen. Term, Jan. 1871, 10 *Abb. (N. S.)* 216.

Dancing.—Where a child was employed to dance and play upon castanets in a low drinking place, *Held*, that the persons so employing her are liable under the act. *The People v. Denabla, Spec. Sess.*, Nov. 16, 1876.

Child Singer.—The employment of a child under the age of sixteen in singing and dancing in a public exhibition, called a "children's opera," is expressly forbidden by the statute. *Matter of Corinne*, Supm. Ct., Donohue, J., *Daily Register*, Dec. 16, 1881.

In Immoral Exhibition.

4. In any indecent or immoral exhibition or practice [Forms Nos. 25 and 26]; or

Immoral exhibition.—Where a girl of twelve years of age was kept for purposes of prostitution, *Held*, that the person so keeping her

was liable under the act for using such child in an indecent and immoral exhibition and practice. *The People v. Perkins*, Spec. Sess.; aff'd by Recorder, March, 1884, *MS. opinion*.

In Dangerous Exhibition.

5. In any practice or exhibition dangerous or injurious to the life, limb, health, or morals of the child [Forms Nos. 25 and 26];

What acts are dangerous.—The contortions, evolutions, and performance of the acrobat are clearly physically dangerous, and the surroundings, accompaniments, and companions of the circus ring are equally so, morally. *Matter of Donohue*, page 22, *supra*.

See also authorities cited under subd. 1, page 22, *supra*.

Is guilty of a misdemeanor.

License to Sing.

But this section does not apply to the employment of any child as a singer or musician in a church, school, or academy, or in teaching or learning the science or practice of music, or as a musician in any concert with the written consent of the Mayor of the city, or the President of the Board of Trustees of the village where such concert takes place.

Act of 1876.—This section is substantially a re-enactment of sections 1 and 2, chapter 122, Laws of 1876, declared to be constitutional. *Matter of Donohue*, 1 *Abb. N. C.* 1.

Societies for the Prevention of Cruelty to Children.

§ 293. A constable or police officer must, and any agent or officer of any incorporated society for the prevention of cruelty to children may, arrest and bring before a court or magistrate having jurisdiction, any person offending against any of the provisions of this chapter, and any minor coming within any of the descriptions of chil-

dren mentioned in section two hundred and ninety-one or in section two hundred and ninety-two.

Such constable, police officer, or agent may interfere to prevent the perpetration in his presence of any act forbidden by this chapter.

A person who obstructs or interferes with any officer or agent of such society in the exercise of his authority under this chapter, is guilty of a misdemeanor.

See also § 288, Penal Code, page 10, *supra*, as to duties and powers of officers.

Societies for the prevention of cruelty to children.—Incorporated under chapter 130, Laws of 1875.

Public character.—A corporation may be private and yet the act or charter contain provisions of a purely public character, introduced solely for the public good and as a general police regulation of the State. *Regents of Univ. of Maryland v. Williams*, 9 *Gill & Johns. (Maryl. R.)* 388.

Powers of such societies.—The New York Society for the Prevention of Cruelty to Children is authorized by the act under which it is incorporated, and it is the duty of that society, whenever the statutes relating to children are violated, to bring such violation to the attention of the court; to ask that the person or persons guilty of such violations be punished, and, if the case demands it, that the child in question be taken from the custody of those violating the law and be placed where he will be protected. *Matter of Corinne, supra*; *The People ex rel. The N. Y. S. P. C. C. v. Gilmore*, 88 *N. Y.* 626.

The object and purpose of such societies is to see that the laws relating to children are rigidly and in good faith enforced, and for that purpose they may prefer complaints in any court or before any magistrate having jurisdiction. *The People v. Strickland*, 13 *Abb. N. C.* 473.

Injunction.—No *ex parte* injunction will be granted against a society for the prevention of cruelty to restrain it, or its officers or agents, from enforcing the laws in relation to the prevention of cruelty to animals. *Davis v. A. S. P. C. A.* 16 *Abb. Pr. N. S.* 73.

Duty of officer.—Where an officer of the New York Society for the Prevention of Cruelty to Children discovered a child locked up alone in a room where a fire was burning, and thereupon removed such child from the room by means of a window and carried him to the society's office, *Held*, that such removal was lawful, and that the child was a proper subject for the custody of the society. *The People ex rel. Newby v. The N. Y. S. P. C. C.* *supra*.

No formal action on the part of the society as a corporation is necessary to enable an officer to prefer a complaint. *The People v. Strickland, supra.*

Obscene Literature, etc.

§ 317. A person who—

1. Sells, lends, gives away, or offers to give away, or shows, or has in his possession with intent to sell, or give away, or to show, or advertises, or otherwise offers for loan, gift, sale, or distribution, an obscene or indecent book, magazine, pamphlet, newspaper, story paper, writing, paper, picture, drawing or photograph, or any article or instrument of indecent or immoral use, or who designs, copies, draws, photographs, prints, utters, publishes, or otherwise prepares such a book, picture, drawing, paper, or other article, or writes or prints, or causes to be written or printed, a circular, advertisement, or notice of any kind, or gives information orally, stating when, where, how, or of whom, or by what means such an indecent or obscene article or thing can be purchased or obtained [Form No. 28]; or

Amendment.—Chapter 380, Laws of 1884, amended this section (subdivision 1), as above, by inserting the words “magazine, pamphlet, newspapers, story paper,” and the words “prints, utters, publishes.”

What constitutes obscenity.—“The question whether a publication is obscene does not depend upon its being true or false, but upon its tendency to inflame the passions and debauch society. That which offends modesty, is indecent and lewd, and tends to the creation of lascivious desires, is obscene; and this tendency is matter of fact to be judged by the jury. A book purporting to give medical instruction may be amenable to the law as an obscene publication when its tendency is rather to debauch society for the purpose of gain than to benefit the public. *The Commonwealth v. Landis*, 8 *Phila. (Pa.)* 453.

The question as to what is obscene is one for the jury to determine. *The People v. Muller*, 19 *Weekly Dig.* 256.

Description in indictment.—To sustain an indictment for publishing an indecent paper the indictment should contain a general description of the print and its tendency, but need not copy its language. *The People v. Hallenbeck*, 52 *How. Pr.* 502; *Commonwealth*

v. Sharpless, 2 *Sergeant & R.* 92; *Commonwealth v. Holmes*, 17 *Mass.* 336.

So of pictures, they need not be particularly described. *State v. Pennington*, 5 *Lea (Tenn.)*, 506.

Sale of Criminal Literature to Minor.

2. Sells, lends, gives away, or shows, or has in his possession with intent to sell or give away, or to show, or advertises or otherwise offers for loan, gift, sale, or distribution, to any minor child, any book, pamphlet, magazine, newspaper, or other printed paper devoted to the publication, or principally made up of criminal news, police reports, or accounts of criminal deeds, or pictures and stories of deeds of bloodshed, lust, or crime [Form No. 28]; or

Amendment.—Chapter 380, Laws of 1884, amended this section by adding the above subdivision (2).

Exhibition of Criminal Literature to Minor.

3. Exhibits upon any street or highway, or in any other place within the view, or which may be within the view, of any minor child, any book, magazine, pamphlet, newspaper, writing, paper, picture, drawing, photograph, or other article or articles coming within the descriptions of articles mentioned in the first and second subdivisions of this section, or any of them [Form No. 30]; or

Amendment.—Chapter 380, Laws of 1884, amended this section by adding the above subdivision (3).

Employing Child to Sell Criminal Literature.

4. In any manner hires, uses, or employs any minor child to sell or give away, or in any manner to distribute, or who, having the care, custody, or control of any minor child, permits such child to sell, give away, or in any other manner to distribute any book, magazine, pamphlet, newspaper, story paper, writing, paper, picture, drawing, pho-

tograph, or other article or matter coming within the descriptions of articles and matter mentioned in the first and second subdivisions of this section, or any of them [Form No. 31];

Amendment.—Chapter 380, Laws of 1884, amended this section by adding the above subdivision (4).

Is guilty of a misdemeanor.

Sale of Firearms to Minor.

§ 409. A person who manufactures, or causes to be manufactured, or sells or keeps for sale, or offers, or gives, or disposes of, any instrument or weapon of the kind usually known as slung-shot, billy, sand-club, or metal knuckles, or who, in any city in this State, without the written consent of a police magistrate, sells or gives any pistol or other firearm to any person under the age of eighteen years, is guilty of a misdemeanor [Form No. 32].

Amendment.—§ 7, chapter 46, Laws of 1884, amended this section by adding the provision therein contained, relating to persons under the age of eighteen years, thereby re-enacting a portion of § 1, chapter 375, Laws of 1883.

Carrying of Firearms by Minor.

§ 410. A person who attempts to use against another, or who, with intent so to use, carries, conceals, or possesses any instrument or weapon of the kind commonly known as slung-shot, billy, sand-club, or metal knuckles, or a dagger, dirk, or dangerous knife, is guilty of a felony. Any person under the age of eighteen years who shall have, carry, or have in his possession in any public street, highway, or place in any city of this State, without a written license from a police magistrate of such city, any pistol or other firearm of any kind, shall be guilty of a misdemeanor. This section shall not apply to the regular and ordinary transportation of firearms as merchandise, or for use without the city limits [Form No. 33].

Amendment.—§ 8, chapter 46, Laws of 1884, amended this section by adding the provisions therein contained relating to persons under the age of eighteen years, thereby re-enacting a portion of § 1, chapter 375, Laws of 1883.

House of Refuge.

§ 701. Where a person under the age of sixteen years is convicted of crime, the trial court may, instead of sentencing him to imprisonment in a state prison or in a penitentiary, direct him to be confined in a house of refuge under the provisions of the statute relating thereto. Where the conviction is had and the sentence is inflicted in the first, second, or third judicial district, the place of confinement must be the house of refuge established by the managers of the Society for the Reformation of Juvenile Delinquents in the city of New York; where the conviction is had and the sentence inflicted in any other district, the place of confinement must be in the Western House of Refuge for Juvenile Delinquents. But nothing in this section shall affect the provision contained in section seven hundred and thirteen.

§ 713 Penal Code, page 30, *infra*.

Incorporation of house of refuge.—See acts cited in Appendix, page 79, *infra*.

Intention of the law.—"In the humanity which the law extends to persons of immature years, it was intended, after the conviction had been had and the liability incurred of imprisonment in the State prison, upon its being ascertained upon examination that the prisoner was under sixteen years of age, to interpose and ameliorate the punishment by incarceration in an institution reformatory in its character." *Park v. The People*, 1 *Lans.* 263.

Period of imprisonment.—This is fixed by statute and need not be specified in the commitment. The language "sent to the house of refuge, there to be dealt with according to law," refers with sufficient certainty to the authority given by law to this institution, and that is, in express terms, to retain in its custody males until their majority, and females until the age of eighteen years. *The People v. Degnen*, 6 *Abb. Pr. N. S.* 87; *s. c.* 54 *Barb.* 105.

Apprenticing.—The institution may lawfully bind out children committed to it to persons residing within or without this State, and a

child so bound out is deemed not to be in the possession of the institution for the purposes of a return to a writ of *habeas corpus*. The People *ex rel.* Tobans *v.* The Governors, etc., Supreme Ct. Gen. Term (Dec. 1859), *MS. opinion*.

Child Convicted of Crime or Misdemeanor, where Committed.

§ 713. When a person under the age of sixteen is convicted of a crime, he may, in the discretion of the court, instead of being sentenced to fine or imprisonment, be placed in charge of any suitable person or institution willing to receive him, and be thereafter, until majority or for a shorter term, subjected to such discipline and control of the person or institution receiving him as a parent or guardian may lawfully exercise over a minor.

A child under sixteen years of age committed for misdemeanor, under any provision of this Code, must be committed to some reformatory, charitable or other institution authorized by law to receive and take charge of minors. And when any such child is committed to an institution it shall, when practicable, be committed to an institution governed by persons of the same religious faith as the parents of such child.

Amendment.—§ 9, chapter 46, Laws of 1884, amended the first paragraph of this section by changing the limit as to age, from “fourteen” to “sixteen” years, by substituting the word “crime” for the word “misdemeanor,” and by inserting the words “or institution.”

Child where committed for misdemeanor.—§ 7, chapter 46, Laws of 1884, amended this section by adding the second paragraph thereof, thereby re-enacting, in substance, § 1, chapter 240, Laws of 1879. See also subd. 5, § 291, Penal Code, page 18, *supra*.

Institutions authorized to receive children.—See subdivision 5, § 291, Penal Code, and authorities cited, page 18, *supra*; and institutions named in Appendix, pages 77–80, *infra*.

CODE OF CRIMINAL PROCEDURE.

Vagrants.

§ 887. The following persons are vagrants :

8. Any child between the ages of five and fourteen, having sufficient bodily health and mental capacity to attend the public schools, found wandering in the streets or lanes of any city or incorporated village, a truant, without any lawful occupation.

Constitutionality.—Statutes concerning vagrants declared to be constitutional. *The People v. Forbes*, 4 *Park. Cr.* 611 ; *The People v. Gray*, 4 *Park. Cr.* 616.

Vagrancy Proceedings.

§ 888. When complaint is made to any magistrate by any citizen or peace officer against any vagrant under subdivision eight of the last section, such magistrate must cause a peace officer to bring such child before him for examination, and shall also cause the parent, guardian, or master of such child, if the child has any, to be summoned to attend such examination.

If, thereon, the complaint shall be satisfactorily established, the magistrate must require the parent, guardian, or master to enter into an engagement in writing to the corporate authorities of the city or village, that he will restrain such child from so wandering about, will keep him in his own premises or in some lawful occupation, and will cause him to be sent to school, at least four months in each year, until he becomes fourteen years old.

The magistrate may, in his discretion, require security for the faithful performances of such engagement.

If the child has no parent, guardian, or master, or none can be found, or if the parent, guardian, or master refuse or neglect, within a reasonable time, to enter into such an en-

gagement, and to give such security if required, the magistrate shall by warrant commit the child to such place as shall be provided for his reception. If no such place for his reception has been provided, he shall commit him to the alms-house of the county.

See also § 291, subds. 5 and 6, and § 713 of Penal Code, as to committing child to reformatory, charitable or other institution, pages 18, 21, 30, *supra*.

Child Committed as a Vagrant.

§ 889. Every child received pursuant to the last section, shall be kept until discharged by the overseers of the poor or the commissioners of the alms-house of the city or village, and may be bound out as an apprentice by them, or either of them, with the consent of any magistrate or any of the aldermen of the city, or any trustee of an incorporated village where he may be, in the same manner, for the same periods and subject to the same provisions in all respects as directed in respect to parents whose children have become chargeable on any town.

See note to § 888, *supra*, as to committing child to institution.

Children Begging.

§ 893. If a child be found begging for alms, or soliciting charity from door to door, or in a street, highway, or public place in a village or town, a justice of the peace or police justice, on complaint and proof thereof, must commit the child to the county poor house or other place provided for the support of the poor, to be kept, employed, and instructed in useful labor, until discharged by the county superintendents of the poor, or in the city of New York by the commissioners of charities and corrections, or bound out as an apprentice by them, as prescribed by special statutes.

See 2 Revised Statutes, p. 837, sec. 4.

See note to § 888, *supra*, as to committing child to institution.

See also § 291, subd. 1, Penal Code, page 15, and authorities there cited, as to child found begging for alms.

Amendment.—This section is deemed to have been amended by chapter 46, Laws of 1884, amending § 291, subds. 5 and 6, Penal Code, pages 18, 21, 30, *supra*, and by Laws of 1884, chapter 438, subd. 2, pages 38 and 39, *infra*, as to place of commitment.

Disorderly Persons.

§ 899. The following are disorderly persons:

1. Persons who actually abandon their wives or children without adequate support, or leave them in danger of becoming a burden upon the public, or who neglect to provide for them according to their means ;

See also Laws of 1833, chapter 11, sec. 7.

See also § 287, Penal Code, page 9, *supra*, as to abandonment of child.

2. Persons who threaten to run away and leave their wives or children a burden upon the public.

Abandonment of child.—As to what constitutes, see authorities collected under § 287, Penal Code, page 9, *supra*.

The fact that the child has voluntarily left his home does not absolve the father from his obligation of support, nor relieve him from his liability under this section. *The People v. Strickland*, 13 *Abb. N. C.* 473.

Abandonment of wife.—The person sought to be supported must be shown to be the wife of the defendant. *Duffy v. The People*, 6 *Hill*, 75.

The abandonment is complete when the separation takes place; it is but one offense whether the separation is for a long or short period. *Bayne v. The People*, 14 *Hun*, 181.

The husband cannot be convicted where he has in good faith offered to support his wife : she cannot impose conditions. *The People v. Pettit*, 74 *N. Y.* 320; *The People v. Strickland*, *supra*.

The pendency of an action for divorce is no defense. *The People v. Mitchell*, 2 *Supm. Ct.* 172.

Other disorderly persons.—See § 899, Code Crim. Pro.

Warrant against Disorderly Person.

§ 900. Upon complaint on oath, to a justice of the peace or police justice of a city, village, or town, or to the

mayor, recorder, city judge, or judge of the general sessions of a city, against a person, as being disorderly, the magistrate must issue a warrant, signed by him, with his name of office, requiring a peace officer to arrest the defendant and bring him before the magistrate for examination.

Disorderly persons.—As to what constitutes, see § 899, Crim. Code.

Proceedings against Disorderly Person.

§ 901. If the magistrate be satisfied from the confession of the defendant, or by competent testimony, that he is a disorderly person, he may require that the person charged give security, by a written undertaking with one or more sureties approved by the magistrate to the following effect :

1. If he be a person described in the first or second subdivision of section 899, that he will support his wife and children and will indemnify the county, city, village, or town against their becoming, within one year, chargeable upon the public;

2. In all other cases, that he will be of good behavior for the space of one year ; or, that the sureties will pay the sum mentioned in the undertaking, and which must be fixed by the magistrate.

Confession.—By a confession is meant a plea of guilty, or the equivalent ; not a deduction of the magistrate from the prisoner's examination. *Bennac v. The People*, 4 *Barb.* 164.

Sale of Liquor, etc., to Minors.

Laws of 1877, ch. 420.—An Act to amend chapter six hundred and twenty-eight of the Laws of eighteen hundred and fifty-seven, entitled, "An Act to suppress intemperance and to regulate the sale of intoxicating liquors."

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

Section 1. Section fifteen of chapter six hundred and twenty-eight of the Laws of eighteen hundred and fifty-seven, entitled, "An Act to suppress intemperance and to regulate the sale of intoxicating liquors is hereby amended so as to read as follows :

§ 15. No inn, tavern, or hotel keeper, or any other person licensed to sell any strong or spirituous liquors or wines, shall, either personally, or by his wife, servant, employee, or other agent, sell or give any such liquors or wines to any Indian or apprentice, knowing, or having reason to believe him to be such, or within the knowledge of such agent, without the consent of his master or mistress, nor to any minor under the age of eighteen years, without the consent of his father or mother, or guardian. Whoever shall, either personally or by his wife, servant, employee, or other agent, offend against either of these provisions, shall forfeit ten dollars for each and every offense, to be recovered by the master of such apprentice or servant, or by the parent or guardian of such minor, and any person who shall, either personally or by his wife, servant, employee, or other agent, sell or give away any strong or spirituous liquors, ale, beer, or wine, to any Indian in this State, or shall sell any beer, ale, wine, or any strong or spirituous liquor to any minor under the age of fourteen years, knowing or having reason to believe such minor to be under such age, shall be deemed guilty of a misdemeanor, and on conviction shall be liable to a fine of twenty-five dollars for each and every offense [Form No. 35].

§ 2. This act shall take effect immediately.

Knowing him to be such.—The plaintiff has the burden of showing that the defendant knew, or had reason to believe the person to whom the sale was made was under eighteen years of age. The words "knowing or having reason to believe him to be such," apply to minors as well as Indians and apprentices. Where the minor was quite a young child it would be evident to the inn-keeper that he was under eighteen and the penalty would then attach. *Perry v. Edwards*, 44 *N. Y.* 223.

Minor acting as agent.—Where an inn-keeper was convicted of violation of the statute in selling liquor to a boy ten years of age, who purchased it for an adult who lived in the same house and furnished the money, *Held*, that the conviction was proper, and that the fact that the boy was acting as agent for an undisclosed principal did not relieve the accused. *Ross v. The People*, 17 *Hun*, 591.

Accidents to Children.

Laws of 1880, ch. 585.—An Act for the prevention of accidents to children.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

Section 1. No minor child within this State not being a passenger shall be allowed upon the platform or steps of any railroad car drawn by steam, or of any omnibus, street car, or other vehicle drawn by horses, and the parents or guardians of any child who shall permit such child to ride or play upon the steps or platform of any such railroad car, omnibus, street car, or other vehicle, shall be punished on conviction by a fine not less than five nor more than ten dollars [Form No. 36].

§ 2. It shall be the duty of all constables and policemen within this State to arrest any child or children violating the provisions of this act. And any such child or children shall likewise on conviction be punished by a fine not exceeding five dollars for each offense [Form No. 37].

§ 3. This act shall take effect immediately.

Kidnapping Persons of Foreign Birth.

An Act to protect persons of foreign birth against forcible restraint or involuntary servitude, passed June 23, 1874. 18 U. S. Stat. at Large, 251.

Be it enacted by the Senate and the House of Representatives of the United States of America, in Congress assembled :

Section 1. That whoever shall knowingly and wilfully bring into the United States, or the Territories thereof, any person inveigled or forcibly kidnapped in any other country, with intent to hold such person so inveigled or kidnapped, in confinement, or to any involuntary service, and whoever shall knowingly sell, or cause to be sold, into any condition of involuntary servitude, any other person for any term whatever, and every person who shall knowingly and wilfully hold to involuntary service any person so sold and bought, shall be deemed guilty of a felony, and on conviction thereof, be imprisoned for a term not exceeding five years, and pay a fine not exceeding five thousand dollars.

Kidnapping.—On the trial, in the United States District Court, before Judge Benedict and a jury, of one Ancarola, an Italian padrone, on an indictment for kidnapping under the U. S. statute, it was proved that Ancarola had landed in New York, having in his custody several Italian boys whom he had obtained from their parents in Italy, under contract and for a pecuniary consideration, it being

his intention to use the boys as street musicians. Judge Benedict charged the jury that, "If you find it proved that these children landed from a vessel that brought them to this city from a foreign port in custody of the accused; that the accused had selected the mode of conveying them and directed the movements of the children in coming here, you may find that the children were brought into the United States by the accused." If "you conclude that the arrangement made in Italy in regard to these children, or either of them, contemplated the delivery of the children to the accused to be by him brought to this country for the purpose of being employed as beggars or street musicians in Chicago, and that the child was then and there enticed to consent to such an arrangement, then you will be justified in finding that such child had been inveigled in Italy." * * "The evidence in regard to his knowledge, in regard to any inveiglement of the children, is to be found in the testimony respecting the part he took in making the bargain with the parents and the obtaining the consent of the child." * * As to intent, "The children were taken from the accused immediately upon landing from the steamer." * * The question rather is, did he (the accused) intend to hold them (the children) to involuntary service as beggars or as musicians? Upon this question the age of the child is important, for as you know, in regard to some things, a child of such tender years is incapable of consent. The nature of the employment to which the accused intended to put the child, the evidence in regard to the arrangement made in Italy, and the ability of the child to labor or play an instrument, are important circumstances in the connection also, for if you believe from the evidence that the intention of the accused in bringing the child to this country was to employ the child as a beggar or as a street musician for his own profit, and that such employment was one injurious to its morals and inconsistent with its proper care and education, according to its conditions, then you will be justified in finding that he intended to hold such child to involuntary service as charged in the indictment, and this notwithstanding the fact that the child had consented to the employment in Italy, and that no evidence of a subsequent dissent while under the control of the accused has been given." The jury rendered a verdict of guilty and the accused was remanded for sentence.

The prisoner's counsel moved for a new trial before the full bench of the United States Circuit Court, when, after argument had, the conviction was affirmed, Judge Blatchford writing the opinion. *The United States v. Ancarola*, 1 *Fed. Rep.* 676, and 17 *Blatchf. C. C. R.* 423.

Children in Institutions.

Laws of 1884, Chapter 438.—An Act to revise and consolidate the statutes of the State relating to the custody and care of indigent and pauper children by orphan asylums and other charitable institutions. Passed May 31, 1884; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

**SURRENDER BY BOTH PARENTS ; BY THE MOTHER ALONE ;
BY THE COUNTY AUTHORITIES.—SUPPORT OF CHILD.**

Section 1. The guardianship of the person and the custody of any indigent child may be committed to any incorporated orphan asylum or other institution incorporated for the care of orphan, friendless, or destitute children, by an instrument in writing signed by the parents of such child, if both such parents shall then be living, or by the surviving parent, if either parent of such child be dead, or if either one of such parents shall have, for the period of six months then next preceding, abandoned such child, by the other of such parents, or if the father of such child shall have neglected to provide for his family during the six months then next preceding, or if such child be a bastard, by the mother of such child ; or if both parents of such child shall then be dead, by the guardian of the person of such child, legally appointed, with the approval of the court or officer which appointed such guardian, to be entered of record ; or if both parents of such child shall then be dead and no legal guardian of the person of such child shall have been appointed, and no guardian of such child shall have been appointed by a last will and testament, or by a deed by either parent thereof, or if the parents of such child shall have abandoned such child for the period of six months then next preceding, by the mayor of the city or by the county judge of the county in which such asylum or such other institution shall be located, upon such terms, for such time, and subject to such conditions as may be agreed upon by the parties to such written instrument. And such written instrument may provide for the absolute surrender of such child to such corporation. But no such corporation shall draw or receive money from public funds for the support of any such child committed under the provisions of this section, unless it shall have been determined by a court of competent jurisdiction that such child has no relative, parent, or guardian living, or that such relative, parent, or guardian, if living, is destitute and actually unable to contribute to the support of such child.

Per capita allowance.—See § 194, subd. 21, chap. 410, Laws 1884.

**CHILDREN BETWEEN TWO AND SIXTEEN YEARS OLD CAN-
NOT BE PLACED IN POOR-HOUSE, ETC.—RELIGIOUS FAITH.**

§ 2. It shall not be lawful for any county superintendent or overseer of the poor, board of charity or other officer, to send any child between the ages of two and sixteen years, as a pauper, to any county poor-house or alms-house for support and care, or

to detain any child between the ages of two and sixteen years in such poor-house or alms-house; but such county superintendents, overseers of the poor, boards of charities, or other officers, shall provide for such child or children, in families, orphan asylums, hospitals, or other appropriate institutions, as provided by law. The boards of supervisors of the several counties of the State are hereby directed to take such action in the matter as may be necessary to carry out the provisions of this section. When any such child shall be so provided for or placed in any orphan asylum or such other institution, such child shall, when practicable, be so provided for or placed in such asylum or such other institution as shall then be controlled by persons of the same religious faith as the parents of such child.

RECORDS OF INSTITUTIONS.—COPIES OF SAME.

§ 3. All institutions, public or private, incorporated or not incorporated, for the reception of minors, whether as orphan, or as pauper, indigent, destitute, vagrant, disorderly, or delinquent persons, are hereby required to provide and keep a record in which shall be entered as the date of reception, and the names and places of birth and residence, nearly as the same can reasonably be ascertained, of all children admitted in such institutions, and how and by whom and for what cause such children shall be placed therein, and the names, residence, birthplace, and religious denomination of the parents of such children so admitted, as nearly as the same can be reasonably ascertained; and whenever any such child shall leave such institution, the proper entry shall be made in such record, showing in what manner such child shall have been disposed of, and if apprenticed to or adopted by any person or family, or otherwise placed out at service or on trial, the name and place of residence of the person or head of the family to or with whom such child shall have been so apprenticed, adopted, or otherwise placed out; and extracts from such record relating to any such child which shall have been so admitted shall, within twenty-four hours after request therefor by any parent, relative, or legal guardian of such child, of the secretary or other officer of such asylum or other institution, and an order of the Supreme Court to that effect, be given by such officer to such parent, relative, or legal guardian. Nothing in this section shall be construed to prevent visitation by relatives and friends in accordance with the established rules of such institutions.

Code of Civil Procedure.—§ 2065. An officer or other person, who detains any one by virtue of a mandate, or other written authority, must, upon reasonable demand, and tender of his fees, deliver a copy thereof to any person who applies therefor for the purpose of procuring a writ of *habeas corpus* or a writ of *certiorari* in behalf of

the prisoner. If he knowingly refuses so to do, he forfeits two hundred dollars to the prisoner.

**REMOVAL OF CHILDREN.—NAMES NOT TO BE CHANGED.—
RIGHTS OF PARENTS TO CUSTODY.**

§ 4. While any child which shall have been placed in such asylum, or other institution, as a pauper, in pursuance of the second section of this act, shall remain therein at the expense of the county or town to which such pauper child is chargeable, the superintendents of the poor of such county, or the overseer of the poor of such town, may, in their discretion, remove such child from such asylum or other institution and place such child in some other such institution, or make such other disposition of such child as shall then be provided by law. The name of no such child shall be changed while in such institution as in this section aforesaid. But no parent of such pauper child, so in such asylum or other institution as in this section aforesaid, shall be entitled to the custody thereof, except in pursuance of a judgment or order of a court or judicial officer of competent jurisdiction, adjudging or determining that the interests of such child will be promoted thereby, and that such parent is fit, competent, and able to duly maintain, support, and educate such child.

APPRENTICES.—FORM OF INDENTURE.

§ 5. Any corporation specified in the first section of this act may bind out any indigent or pauper child, if a male, for a period which shall not be beyond his twenty-first year, and if a female, for a period which shall not be beyond her eighteenth year, which shall have been absolutely surrendered to the care and custody of such corporation in pursuance of the provisions of the first section of this act, or which shall have been placed therein as a pauper in pursuance of the provisions of the second section of this act, or which shall have been left to the care of such corporation with no provision by the parent, relative, or legal guardian of such child, for its support for a period of one year then next preceding, to be a clerk, apprentice, or servant, by an indenture in writing, which shall be executed under seal and signed in the name of such corporation by such officer or officers thereof as shall be authorized by the directors or trustees thereof to sign such corporate name to such indentures, and shall be signed also by the person or persons to whom such child shall be so bound out, who shall, in such indenture, undertake to treat such child kindly, which binding shall be as effectual as if such child had bound himself or herself with the consent of his or her father. The provisions of sections eight, nine, and ten, of article first of title fourth of chapter eight of part second of the Re-

vised Statutes, shall apply to all cases of binding under this act.

(NOTE.—Under this act children held on commitment of magistrate should not be indentured until they have been left without support for a period of at least one year.)

DAMAGES AGAINST EMPLOYERS.

§ 6. Should any such master or employer to whom any such child shall have been so bound out fail, at any time during the continuance of such apprenticeship, to provide suitable and proper board, lodging, and medical attendance, or fail to perform any of the provisions of said indenture, on his part, said apprentice, individually, or any person on his behalf, may bring an action against said employer to recover damages sustained by reason of such failure; and if proved to the satisfaction of the court, and the court shall deem it a proper case, the court shall direct said indentures to be canceled, and may render a judgment against such employer not exceeding one thousand dollars, and not less than one hundred dollars, and said judgment shall be collected and paid over to the corporation which was a party to such indenture, to be used for the benefit of such minor as such corporation shall direct.

ADOPTION OF CHILDREN.—FORM OF AGREEMENT.

§ 7. Any child which a corporation specified in the first section of this act is, by the fifth section of this act, authorized to bind out, may be placed by such corporation, by adoption, with some suitable person or persons, by a written instrument of adoption, which shall be executed under seal and signed in the corporate name of such corporation by such officer or officers as shall be authorized by the directors or trustees thereof to sign such corporate name to such instruments, and which shall also be signed by the person or persons with whom such child shall be so placed by adoption, and if either of the persons so taking such child by adoption shall then have a husband or wife from whom such person is not lawfully separated, such instrument of adoption shall also be signed by such husband or wife. When practicable, all such children shall be indentured, bound out, and given for adoption to persons of the same religious faith as the parents of such children.

Adoption.—For general act relating to, see § 2, R. S. p. 165; Laws of 1873, ch. 830; Delafield's Laws Relating to Children, p. 11 *et seq.*

RELATION OF FOSTER PARENT AND CHILD.—PROVISIONS IN AGREEMENT.—AGREEMENT, BY WHOM EXECUTED.

§ 8. Each person taking a child by adoption, in pursuance of

this act, is hereinafter designated as the foster parent of such child, and such foster parent and such child shall, after such adoption, sustain toward each other the legal relation of parent and child, and have all the rights and be subject to all the duties of that relation, excepting the right of inheritance, and except that as respects the passing and limiting over of real and personal property under and by deeds, conveyances, wills, devises, and trusts, said child so adopted shall not be deemed to sustain the legal relation of child to either of its foster parents; and such instrument of adoption shall contain in substance the foregoing provisions of this section, and the further provision that the foster parents of such child shall treat such child, in all respects, as their own child should be treated. Such instrument of adoption shall also contain, as nearly as can be reasonably ascertained, a statement of the age of such child, and the age as so stated shall be taken *prima facie* to be the true age without further proof thereof.

§ 9. Any child adopted in pursuance of the provisions of this act, may take the surname of its foster parents.

§ 10. If any child to be adopted or bound out in pursuance of this act shall be over twelve years of age prior to such binding out or adoption, such indenture or the instrument of adoption, as the case may be, may be also signed by said child.

RIGHTS AND RESPONSIBILITIES OF PARENTS.

§ 11. The parents of any child which shall have been adopted or bound out in pursuance of this act shall, from the time of such adoption or binding out, as the case may be, be relieved from all parental duties toward, and of all responsibility for, the child so bound out or adopted, and shall thereafter have no rights over, or to the custody, services, or earnings of such child.

CANCELLATION OF AGREEMENT BY CHILD.

§ 12. Any child which shall have been adopted in pursuance of the provisions of this act, or any corporation which shall have been a party to the agreement by which such child shall have been so adopted, or any person on behalf of such child, may make an application to the surrogate's court of the county in which the foster parent of such child shall reside at the time of such application, for the cancellation of such agreement of adoption and for the termination of the relation of parent and child between such foster parent and adopted child, upon the ground of cruelty, misuse, refusal of necessary provisions or clothing, or inability to support, maintain, or educate such child, or of any violation of duty on the part of such foster parent toward such

child; which application shall be by a petition setting forth the grounds of such application and duly verified by the person or by some officer of the corporation making the same. A citation shall thereupon be issued out of such surrogate's court, requiring such foster parent to show cause why such application should not be granted. The provisions of the Code of Civil Procedure relating to the issuing, contents, time and manner of service of citations issued out of surrogates' courts, and to the hearing upon the return thereof, and to enforcing the attendance of witnesses, and to all proceedings thereon, and to appeals from decrees of surrogates' courts, not inconsistent with this act, shall apply in cases of citations issued in pursuance of this act, and to all proceedings had thereon. And such surrogate's court shall have jurisdiction to order and compel the production of the person of such child before such surrogate's court. In case such surrogate shall, upon the proofs adduced before him upon the hearing on such citation, determine that either of the aforesaid grounds for such application exist, and that the interests of such child will be promoted by granting such application, and that such foster parent has justly forfeited his rights to the custody and services of such child, a decree shall be made and entered by such surrogate's court canceling such agreement of adoption, and terminating the relation of parent and child between such foster parent and adopted child, which decree shall be valid and effectual therefor; and thereupon the status of such child shall be the same as if no proceedings with reference thereto had been had under this act. But after one such petition against any such foster parent shall have been denied, a citation upon a subsequent petition against the same foster parent may be issued or refused in the discretion of the surrogate's court to whom such subsequent petition shall be made.

CANCELLATION OF AGREEMENT BY PARENT.

§ 13. Any foster parent who shall have adopted any child in pursuance of this act may apply to the surrogate's court of the county in which such foster parent shall reside at the time of such application, for the cancellation of the agreement for such adoption, and for the termination of the relation of parent and child between such foster parent and such adopted child upon the ground of the willful desertion of such child from such foster parent, or of any misdemeanor, or ill-behavior of such child, which application shall be by petition stating the grounds of such application, and the substance of such agreement of adoption, and duly verified by the petitioner, and thereupon a citation shall be issued out of such court directed to the said child and to the corporation which was a party to such agreement of

adoption, or to the superintendent of the poor of such county in case such corporation shall not then be in existence, requiring them to show cause why such petition should not be granted. Unless such corporation shall appear upon the return of such citation, before the hearing thereon shall proceed, a special guardian shall be appointed by such court to protect the interests of such child in such proceeding, and such foster parent shall pay to such special guardian such sum as such court shall direct for the purpose of paying the fees of such special guardian and the necessary disbursements of such guardian in preparing for and contesting such application on behalf of such child. In case such surrogate shall determine, upon the proofs adduced before him upon the hearing on such citation, that said child has violated his duty toward such foster parent, and that, due regard being had both to the interests of such child and of such foster parent, the circumstances of the case require that such agreement of adoption be canceled, and that such relation of parent and child shall be terminated, a decree shall be made and entered accordingly, which shall be valid and effectual for that purpose; and such court may make any disposition of such child which any court or officer shall then be authorized to make of vagrant, truant, or disorderly children. If such surrogate shall otherwise determine, a decree shall be made and entered by said court denying such petition.

ACTS REPEALED.

§ 14. The following acts and parts of acts heretofore passed by the legislature of the State are hereby repealed, to wit: ¹ chapter one hundred and fifty-nine of the laws of eighteen hundred and fifty-five; ² chapter sixty-one of the laws of eighteen hundred and fifty-seven; ³ chapter four hundred and eleven of the laws of eighteen hundred and sixty-nine; ⁴ chapter four hundred and thirty-one of the laws of eighteen hundred and seventy; ⁵

¹ Entitled "An act to allow the trustees, directors, or managers of incorporated asylums to bind out orphans or indigent children surrendered to their care." Passed April 5, 1855.

² Entitled "An act in relation to orphan and destitute children." Passed March 2, 1857.

³ Entitled "An act for the better protection of minors." Passed April 29, 1869.

⁴ Entitled "An act to amend an act entitled 'An act to allow the trustees, directors, or managers of incorporated asylums to bind out orphan or indigent children surrendered to their care,' passed April 5, 1855, and to provide for the custody of such children." Passed April 27, 1870.

⁵ Entitled "An act to authorize the various associations and societies incorporated under the laws of the State of New York, for the purpose of taking care of and protecting destitute infant minor children, to bind out by inden-

chapter five hundred and twenty-two of the laws of eighteen hundred and seventy-five ; and sections one and two of¹ chapter one hundred and twelve of the laws of eighteen hundred and seventy-eight. But the repeal of said act shall not affect the validity of any indentures of apprenticeship or other agreements executed before this act shall take effect, nor any action or proceedings which shall have been commenced in any court or before any officer before this act shall take effect.

§ 15. This act shall take effect immediately.

ture destitute children who are in their care and keeping." Passed June 7, 1875.

¹ Entitled "An act to amend chapter one hundred and fifty-nine of the laws of eighteen hundred and fifty-five, entitled 'An act to allow the trustees, directors, or managers of incorporated asylums to bind out orphans or indigent children surrendered to their care.'" Passed April 6, 1878.

FORMS.

DIRECTIONS AS TO FORMS.

In preparing the Forms officers are directed to state time and place and the facts constituting the particular offense as fully and accurately as the circumstances of the case will permit. Where the officer did not see the offense committed, he may allege "that he has been informed by John Roe, and has just cause to believe, and does believe, that," etc. *Campbell v. Ewall, 7 How. Pr. 399.*

FORM NO. 1.

Information for Kidnapping.

(Sec. 211, Subd. 1.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, }
City and County of New York, } ss.:

, of Number , street, in said city, being duly sworn, deposes and says, that on the day of , 188 , at No. , street, in the said city of New York, one John Roe did unlawfully and willfully seize [*or, confine—or, inveigle—or, kidnap*] one James Doe with intent to cause him, without authority of law, to be secretly confined or imprisoned within this State [*or, to be sent out of this State—or, to be sold as a slave—or, held to service—or, kept—or, detained*] against his, said James Doe's, will, in violation of the statutes in such cases made and provided, and especially of section 211 of the Penal Code.

Wherefore deponent prays that the said John Roe may be arrested and dealt with according to law.

Sworn to before me, this

day of , 188 .

FORM No. 2.

Information for Kidnapping Child.

(Sec. 211, Subd. 2.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, }
City and County of New York, } ss.:

, of Number , street, in said city, being

duly sworn, deposes and says, that on the day of , 188 , at No. , street, in said city of New York, one John Roe did unlawfully and willfully lead [*or*, take—*or*, entice away—*or*, detain] a certain child called James Doe, said child then and there being under the age of twelve years, to wit, of the age of years, with intent to keep or conceal said child from its parent [*or*, guardian—*or* other person having the lawful care or control of said child], [*or*, to extort—*or*, to obtain money or reward for the return or disposition of said child—*or*, with intent to steal any article about or on the person of said child], in violation of the statutes in such case made and provided, and especially of section 211 of the Penal Code.

Wherefore deponent prays that the said John Roe may be arrested and dealt with according to law.

Sworn to before me, this
day of , 188 .

FORM NO. 3.

Information for Kidnapping.

(Sec. 211, Subd. 3.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, }
City and County of New York, } ss.:

 , of Number , street, in said city, being duly sworn, deposes and says, that on the day of , 188 , one John Roe did unlawfully and willfully abduct [*or*, entice—*or*, by force or fraud unlawfully take or carry away] one James Doe at or from , a place without the State [*or*, procure—*or*, advise—*or*, aid or abet such—an abduction—*or*, enticing—*or*, taking or carrying away], and did afterwards send, bring, have, or keep said James Doe [*or*, cause him to be kept or secrete] within this State, to wit, at No. , street, in said city of New York, in violation of the statutes in such case made and provided, and especially of section 211 of the Penal Code.

Wherefore deponent prays that the said John Roe may be arrested and dealt with according to law.

Sworn to before me, this
day of , 188 .

FORM NO. 4.

Information for Abduction of Female under Sixteen.

(Sec. 282, Subd. 1.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, }
 City and County of New York, } ss.:

, of Number , street, in said city, being
 duly sworn, deposes and says, that on the day of ,
 188 , at No. , street, in said city of New York, one
 John Roe did unlawfully and willfully take a certain female [now
 present] called Mary Doe, said female then and there being under
 the age of sixteen years, to wit, of the age of years, for the
 purpose of prostitution and sexual intercourse [*or*, without the
 consent of her father, mother, guardian, or other person having
 legal charge of her person, for the purpose of marriage], in vio-
 lation of the statutes in such case made and provided, and
 especially of section 282 of the Penal Code.

Wherefore deponent prays that the said John Roe may be
 arrested and dealt with according to law.

Sworn to before me, this
 day of , 188 .

FORM NO. 5.

Information for Abduction of Unmarried Female.

(Sec. 282, Subd. 2.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, }
 City and County of New York, } ss.:

, of Number , street, in said city, being
 duly sworn, deposes and says, that on the day of ,
 188 , at No. , street, in the said city of New York,
 one John Roe unlawfully and willfully did inveigle [*or*, entice] a
 certain female called Mary Doe, said female then and there being
 unmarried and under the age of twenty-five years, to wit, of the
 age of years, of previous chaste character, into a house of ill-
 fame [*or*, of assignation—*or elsewhere*] for the purpose of prostitu-
 tion and sexual intercourse, in violation of the statutes in such case
 made and provided, and especially of section 282 of the Penal Code.

Wherefore deponent prays that the said John Roe may be
 arrested and dealt with according to law.

Sworn to before me, this
 day of , 188 .

FORM NO. 6.

Information for Abduction of a Woman against her will.

(Sec. 282, Subd. 3.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, }
 City and County of New York, } ss.:

, of Number , street, in said city, being duly sworn, deposes and says, that on the day of , 188 , at No. , street, in said city of New York, one John Roe unlawfully and willfully did take [*or*, detain] a certain woman, called Mary Doe, unlawfully against her will, with the intent to compel her by force [*or*, menace—*or*, duress] to marry him [*or* to marry any other person—*or*, to be defiled], in violation of the statutes in such case made and provided, and especially of section 282 of the Penal Code.

Wherefore deponent prays that the said John Roe may be arrested and dealt with according to law.

Sworn to before me, this
 day of , 188 .

FORM NO. 7.

Information against Parent consenting to Abduction.

(Sec. 282, Subd. 4.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, }
 City and County of New York, } ss.:

, of Number , street, in said city, being duly sworn, deposes and says, that on the day of , 188 , at No. , street, in said city of New York, one John Roe, then and there being the parent [*or*, guardian—*or*, person having the legal charge of the person] of a certain female [now present], called Mary Roe, said female then and there being under the age of sixteen years, to wit, of the age of years, did unlawfully and willfully consent to the taking [*or*, detaining] of said female by one James Doe for the purpose of prostitution and sexual intercourse, at No. , street, in said city, in violation of the statutes in such case made and provided, and especially of section 282 of the Penal Code.

Wherefore deponent prays that the said John Roe may be arrested and dealt with according to law.

Sworn to before me, this
 day of , 188 .

FORM NO. 8.

Information for Abandonment of Child.

(Sec. 287.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, }
 City and County of New York, } ss.:

, of Number , street, in said city, being duly sworn, deposes and says, that on the day of , 188 , at No. , street, in said city of New York, one John Roe, then and there being the parent [*or*, person having the care or custody for nurture or education] of a certain child [now present] called James Roe, said child then and there being under the age of six years, to wit, of the age of years, did unlawfully and willfully desert said child in said place with intent wholly to abandon said child, in violation of the statutes in such case made and provided, and especially of section 287 of the Penal Code.

Wherefore deponent prays that the said John Roe may be arrested and dealt with according to law.

Sworn to before me, this
 day of , 188 .

FORM NO. 9.

Information for omitting to furnish Food, etc., to Minor.

(Sec. 288.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, }
 City and County of New York, } ss.:

, of Number , street, in said city, being duly sworn, deposes and says, that on the day of , 188 , at No. , street, in said city of New York, one John Roe did unlawfully and willfully omit, without lawful excuse, to perform a duty by law imposed upon him to furnish food [*or*, clothing—*or*, shelter—*or*, medical attendance] to a certain minor [now present] called James Doe, the said James Doe being then and there of the age of years, in violation of the statutes in such case made and provided, and especially of section 288 of the Penal Code.

Wherefore deponent prays that the said John Roe may be arrested and dealt with according to law.

Sworn to before me, this
 day of , 188 .

FORM NO. 10.

Information for "Baby Farming."

(Sec. 288.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, }
 City and County of New York, } ss.:

, of Number , street, in said city, being duly sworn, deposes and says, that on the day of , 188 , at No. , street, in said city of New York, one John Roe, not being a duly incorporated institution, did unlawfully and willfully receive [*or*, board—*or*, keep] therein at the same place, at the same time, more than two foundlings [*or*, abandoned—*or*, homeless—children], to wit, three such children [now present] named and aged respectively, Mary Doe, age 5 years, Jane Doe, age 3 years, Sarah Doe, age 1 year, said children being then and there severally under the age of 12 years, none of said children being the relatives, or apprentices or pupils or wards of the said John Roe; and that the said John Roe received [*or*, boarded—*or*, kept] the above named children at the time and place aforesaid without legal commitment, and without having first obtained a license in writing so to do from a member of the State Board of Charities or from the Mayor or Board of Health of the city of New York aforesaid, as by law required, in violation of the statutes in such case made and provided, and especially of section 288 of the Penal Code.

Wherefore deponent prays that the said John Roe may be arrested and dealt with according to law.

Sworn to before me, this
 day of , 188 .

FORM NO. 11.

Information for Endangering Life or Health of Child.

(Sec. 289, Subd. 1.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, }
 City and County of New York, } ss.:

, of Number , street, in said city, being duly sworn, deposes and says, that on the day of , 188 , at No. , street, in said city of New York, one John Roe, then and there having the care and custody of one James Doe [now present], the said James Doe being then and there a minor, to wit, of the age of years, did then and there unlawfully and

willfully cause [*or*, permit] the said minor's life to be endangered [*or*, health to be injured—*or*, morals to become depraved], in violation of the statutes in such case made and provided, and especially of section 289 of the Penal Code.

Wherefore deponent prays that the said John Roe may be arrested and dealt with according to law.

Sworn to before me, this
day of , 188 .

FORM NO. 12.

Information for Placing Child in Dangerous Situation, etc.

(Sec. 289, Subd. 2.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, }
City and County of New York, } ss.:

, of Number , street, in said city, being duly sworn, deposes and says, that on the day of , 188 , at No. , street, in said city of New York, one John Doe, then and there having the care and custody of one James Doe [now present], the said James Doe being then and there a minor, to wit, of the age of years, the said John Doe did then and there unlawfully and willfully cause [*or*, permit] the said minor to be placed in such a situation [*or*, to engage in such an occupation] that its [said minor's] life was then and there endangered [*or*, its health was and is likely to be injured—*or*, its morals were and are likely to be impaired] in violation of the statutes in such cases made and provided, and especially of section 289 of the Penal Code.

Wherefore deponent prays that the said John Doe may be arrested and dealt with according to law.

Sworn to before me, this
day of , 188 .

FORM NO. 13.

Information for Admitting Child to Dance-house, etc.

(Sec. 290.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, }
City and County of New York, } ss.:

, of Number , street, in said city, being duly sworn, deposes and says, that on the day of , 188 ,

at No. street, in said city of New York, one John Roe, then and there being the owner [*or*, keeper—*or*, manager] of a certain dance-house [*or*, concert saloon—*or*, theatre—*or*, museum—*or*, place where wines or spirituous or malt liquors were then being sold or given away—*or*, place of entertainment injurious to health or morals], known as , therein did unlawfully and willfully admit [*or*, allow to remain] a certain child, called James Doe [now present], said child being then and there actually and apparently under the age of sixteen years, to wit, of the age of years, the said child then and there not being accompanied by its parent or guardian, in violation of the statutes in such case made and provided, and especially of section 290 of the Penal Code.

Wherefore deponent prays that the said John Roe may be arrested and dealt with according to law.

Sworn to before me, this
day of , 188 .

FORM NO. 14.

Information for Permitting Child to Play Games of Chance, etc.

(Sec. 290.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, {
City and County of New York, } ss.:

 , of Number , street, in said city, being duly sworn, deposes and says, that on the day of , 188 , at No. , street, in said city of New York, one John Roe did then and there unlawfully and willfully suffer and permit a certain child called James Doe [now present], said child then and there being actually and apparently under the age of sixteen years, to wit, of the age of years, to play a certain game of skill [*or*, chance—*describing it*] in said premises, the said premises then and there being [*or*, being adjacent to] a dance-house [*or*, concert saloon—*or*, theatre—*or*, museum—*or*, place where wine or spirituous or malt liquors were then being sold or given away—*or*, place of entertainment injurious to health or morals], and to be and remain therein in violation of the statutes in such case made and provided, and especially of section 290 of the Penal Code.

Wherefore deponent prays that the said John Roe may be arrested and dealt with according to law.

Sworn to before me, this
day of , 188 .

FORM NO. 15.

Information against Child Begging, Gathering Rags, etc.

(Sec. 291, Subd. 1.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, }
 City and County of New York, } ss.:

, of Number , street, in said city, being duly sworn, deposes and says, that on the day of , 188 , at No. , street, in said city of New York, a certain child [now present] called John Doe, then and there being actually and apparently under the age of sixteen years, to wit, of the age of years, was, by deponent, found begging, receiving, and gathering alms [*or*, gathering or picking rags—*or*, collecting cigar stumps—*or*, bones—*or*, refuse from markets], in violation of the statutes in such case made and provided, and especially of section 291 of the Penal Code.

Wherefore deponent prays that the said John Doe may be arrested and dealt with according to law.

Sworn to before me, this
 day of , 188 .

FORM NO. 16.

Information against Homeless or Abandoned Child.

(Sec. 291, Subd. 2.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, }
 City and County of New York, } ss.:

, of Number , street, in said city, being duly sworn, deposes and says, that on the day of , 188 , at No. , street, in said city of New York, a certain child [now present] called John Doe, then and there being actually and apparently under the age of sixteen years, to wit, of the age of years, was by deponent found, not having any home or other place of abode or proper guardianship [*or*, having been abandoned—*or*, improperly exposed—*or*, neglected by its parents or other person or persons having it in charge—*or*, being in a state of want and suffering], in violation of the statutes in such case made and provided, and especially of section 291 of the Penal Code.

Wherefore deponent prays that the said John Doe may be arrested and dealt with according to law.

Sworn to before me, this
 day of , 188 .

FORM NO. 17.

Information against Child Destitute, etc.

(Sec. 291, Subd. 3.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, }
 City and County of New York, } ss.:

, of Number , street, in said city, being duly sworn, deposes and says, that on the day of , 188 , at No. , street, in said city of New York, a certain child [now present] called John Doe, then and there being actually and apparently under the age of sixteen years, to wit, of the age of years, was by deponent found destitute of means of support, being an orphan [*or*, living—*or*, having lived with or in custody of a parent or guardian who had been sentenced to imprisonment for crime—*or*, who had been convicted of a crime against the person of said child—*or*, had been adjudged an habitual criminal], in violation of the statutes in such case made and provided, and especially of section 291 of the Penal Code.

Wherefore deponent prays that the said John Doe may be arrested and dealt with according to law.

Sworn to before me, this
 day of , 188 .

FORM NO. 18.

Information against Child Frequenting the Company of Thieves, etc.

(Sec. 291, Subd. 4.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, }
 City and County of New York, } ss.:

, of Number , street, in said city, being duly sworn, deposes and says, that on the day of , 188 , at No. , street, in said city of New York, a certain child [now present] called John Doe, then and there being actually and apparently under the age of sixteen years, to wit, of the age of years, was by deponent found frequenting and being in the company of reputed thieves [*or*, prostitutes—*or*, in a reputed house of prostitution or assignation—*or*, living in such a house either with or without its parent or guardian—*stating names and places*], in violation of the statutes in such case made and provided, and especially of section 291 of the Penal Code.

Wherefore deponent prays that the said John Doe may be arrested and dealt with according to law.

Sworn to before me, this
day of , 188 .

FORM NO. 19.

Information against Child Frequenting Concert Saloons, etc.

(Sec. 291, Subd. 4.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, { ss.:
City and County of New York, {
 , of Number , street, in said city, being duly
sworn, deposes and says, that on the day of , 188 ,
at No. , street, in said city of New York, a certain child
[now present] called John Doe, then and there being actually
and apparently under the age of sixteen years, to wit, of the age
of years, was by deponent found frequenting and being in
concert saloons [*or*, dance-houses—*or*, theatres—*or*, museums—
or other place of entertainment—*or*, places where wines or malt
or spirituous liquors were then sold], and that said child then
and there was not in the charge of its parent or guardian, in
violation of the statutes in such case made and provided, and
especially of section 291 of the Penal Code.

Wherefore deponent prays that the said John Doe may be arrested and dealt with according to law.

Sworn to before me, this
day of , 188 .

FORM NO. 20.

Information against Child Playing Game of Chance.

(Sec. 291, Subd. 4.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, { ss.:
City and County of New York, {
 , of Number , street, in said city, being duly
sworn, deposes and says, that on the day of , 188 ,
at No. , street, in said city of New York, a certain child
[now present] called John Doe, then and there being actually
and apparently under the age of sixteen years, to wit, of the age
of years, was by deponent found playing a certain game
of chance [*or*, skill—*describing it*] in said premises, wherein [*or*,
adjacent to which] beer [*or*, ale—*or*, wine—*or*, liquor] was then

and there being sold or given away [*or*, found being in said premises wherein—*or*, adjacent to which—beer—*or*, ale—*or*, wine—*or*, liquor—was then and there being sold or given away], in violation of the statutes in such case made and provided, and especially of section 291 of the Penal Code.

Wherefore deponent prays that the said John Doe may be arrested and dealt with according to law.

Sworn to before me, this
day of _____, 188 .

FORM No. 21.

Complaint as to Female under Sixteen Years Living in House of Prostitution.

(Laws 1881, Chap. 496, Sec. 3.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, }
City and County of New York, } ss.:

, of Number _____, street, in said city, being duly sworn, deposes and says, that he has just and reasonable cause to suspect and does suspect, that on the _____ day of _____, 188 , at a certain house or place known as No. _____, street, in said city of New York, a certain female child called Mary Roe, said child being then and there under the age of sixteen years, to wit, of the age of _____ years, was and is living and detained and kept therein for the purpose of prostitution, in violation of the statutes in such case made and provided, and especially of section 3, chapter 496 of the Laws of 1881.

Wherefore deponent prays that the said Mary Roe, together with any and all persons occupying such house or place, or in charge thereof, by whatsoever names they may be known or called, may be arrested and dealt with according to law.

Sworn to before me, this
day of _____, 188 .

FORM No. 22.

Information against Child Employed as an Acrobat.

(Sec. 291, Subd. 5.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, }
City and County of New York, } ss.:

, of Number _____, street, in said city, being duly sworn, deposes and says, that on the _____ day of _____, 188 ,

at No. , street, in said city of New York, a certain child [now present] called John Doe, then and there being actually and apparently under the age of sixteen years, to wit, of the age of years, was then and there employed [*or*, caused to be employed—*or*, exhibited—*or*, used—*or*, held in custody for the purpose of being exhibited or employed] as a rope or wire walker [*or*, dancer—*or*, gymnast—*or*, contortionist—*or*, rider—*or*, acrobat—*or*, in begging—*or*, receiving alms—*or*, in any mendicant occupation—*or*, in peddling—*or*, in any theatrical exhibition—*or*, in any wandering occupation—*or*, in any indecent or immoral exhibition or practice—*describing it*—*or*, in any practice or exhibition dangerous or injurious to the life, or limb, or health or morals of said child—*describing it*] in violation of the statutes in such case made and provided, and especially of section 291 of the Penal Code.

Wherefore deponent prays that the said John Doe may be arrested and dealt with according to law.

Sworn to before me, this

day of , 188 .

FORM No. 23.

Information against Child Employed as Singer or Musician.

(Sec. 291, Subd. 5.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, }
City and County of New York, } ss.:

, of Number , street, in said city, being duly sworn, deposes and says, that on the day of , 188 , at No. , street, in said city of New York, a certain child [now present] called John Doe, then and there being actually and apparently under the age of sixteen years, to wit, of the age of years, was then and there employed [*or*, caused to be employed—*or*, exhibited—*or*, used—*or*, held in custody for the purpose of being exhibited or employed], by one James Roe, in singing [*or*, playing upon a musical instrument], the said child then and there not being employed in a church, or school, or academy, or in teaching or learning the science or practice of music, and not being employed as a musician in a concert, with the written consent of the Mayor of the city of New York as provided by law, in violation of the statutes in such case made and provided, and especially of section 291 of the Penal Code.

Wherefore deponent prays that the said John Doe may be arrested and dealt with according to law.

Sworn to before me, this

day of , 188 .

FORM NO. 24.

Information against Child Witness.

(Sec. 291, Subd. 6.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, }
 City and County of New York, } ss.:

, of Number , street, in said city, being duly sworn, deposes and says, that a certain child called John Doe [now present], being under the age of sixteen years, to wit, of the age of years, is a necessary and material witness on behalf of the people of the State of New York in a certain criminal case now pending in the Court of Sessions of, in and for the city and county of New York, entitled *The People vs. James Roe*, wherein the said James Roe is charged with the crime of , under Section of the Penal Code of said State, in that he, the said James Roe [*allege facts constituting the crime charged*], and that the said John Doe will, as deponent verily believes, unless duly held to appear on the trial thereof, avoid giving his testimony at the instance of the people.

Wherefore deponent prays that the said child, John Doe, may be temporarily committed to a suitable institution as a witness, to appear on the trial of the aforesaid criminal case, in pursuance of the statutes in such case made and provided, and especially of Section 291 of the Penal Code.

Sworn to before me, this
 day of , 188 .

FORM NO. 25.

Information against Person Illegally Employing Child as an Acrobat, etc.

(Sec. 292.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, }
 City and County of New York, } ss.:

, of Number , street, in said city, being duly sworn, deposes and says, that on the day of , 188 , at No. , street, in said city of New York, one John Roe did then and there unlawfully and willfully employ [*or, cause to be employed—or, exhibited—or, used—or, had in his custody for the purpose of exhibiting or employing*] a certain child [now present] called James Doe, said child then and there being

actually and apparently under the age of sixteen years, to wit, of the age of years, as a rope or wire walker [*or, dancer—or, gymnast—or, contortionist—or, rider—or, acrobat—or, in begging—or, receiving alms—or, in any mendicant occupation—or, in peddling—or, in any theatrical exhibition—or, in any wandering occupation—or, in any indecent or immoral exhibition or practice—or, in any practice or exhibition dangerous or injurious to the life, or limb, or health, or morals of said child—describing it*] in violation of the statutes in such case made and provided, and especially of section 292 of the Penal Code.

Wherefore deponent prays that the said John Roe may be arrested and dealt with according to law.

Sworn to before me, this
day of , 188 .

FORM NO. 26.

Information against Parent or Other Person Consenting to Illegal Employment of Child.

(Sec. 292.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, }
City and County of New York, } ss.:

, of Number , street, in said city, being duly sworn, deposes and says, that on the day of , 188 , at No. , street, in said city of New York, one John Roe, then and there being the parent [*or, relative—or, guardian—or, employer—or other*] and having the care, custody, and control of a certain child called James Doe, said child then and there being actually and apparently under the age of sixteen years, to wit, of the age of years, did then and there unlawfully and willfully sell [*or, let out—or, give away—or, procure—or, consent to the employment or exhibition of*] said child as a rope or wire walker [*or, dancer—or, gymnast—or, contortionist—or, rider—or, acrobat—or, in begging—or, receiving alms—or, in any mendicant occupation—or, in peddling—or, in any theatrical exhibition—or, in any wandering occupation—or, in any indecent or immoral exhibition or practice—describing it—or, in any practice or exhibition dangerous or injurious to the life, or limb, or health, or morals of said child—describing it*] in violation of the statutes in such case made and provided, and especially of section 292 of the Penal Code.

Wherefore deponent prays that the said John Roe may be arrested and dealt with according to law.

Sworn to before me, this
day of , 188 .

FORM NO. 27.

Information against a Person Employing Child as Singer or Musician.

(Sec. 292, Subd. 3.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, }
 City and County of New York, } ss. :

, of Number , street, in said city, being
 duly sworn, deposes and says, that on the day of ,
 188 , at No. , street, in said city of New York, one
 John Roe did then and there unlawfully and willfully employ [*or*,
 cause to be employed or exhibited or used—*or*, had in his custody
 for the purpose of exhibiting or employing—*or*, then and there
 being the parent, or guardian, or relative, or employer, having the
 care, custody or control of, did sell, or let out, or give away, or
 procure, or consent to the employment or exhibition of] a certain
 child called James Doe, said child then and there being actually
 and apparently under the age of sixteen years, to wit, of the age
 of years, in singing [*or*, playing upon a musical instrument];
 the said child then and there not being employed in a church, or
 school, or academy, or in teaching or learning the science or prac-
 tice of music, and not being employed as a musician in a concert,
 with the written consent of the Mayor of the city of New York, as
 provided by law, in violation of the statutes in such case made
 and provided, and especially of section 292 of the Penal Code.

Wherefore deponent prays that the said John Roe may be
 arrested and dealt with according to law.

Sworn to before me, this
 day of , 188 .

FORM NO. 28.

Information for Sale, etc., of Obscene Books, etc.

(Sec. 317, Subd. 1.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, }
 City and County of New York, } ss. :

, of Number , street, in said city, being
 duly sworn, deposes and says, that on the day of ,
 188 , at No. , street, in said city of New York, one
 John Doe did then and there unlawfully and willfully sell [*or*,
 lend—*or*, give away—*or*, offer to give away or show,—*or*, have in
 his possession with intent to sell—*or*, give away—*or*, to show—

or, to advertise—*or*, offer for loan or gift or sale or distribution,—*or*, design—*or*, copy—*or*, draw—*or*, photograph—*or*, print—*or*, utter—*or*, publish,—*or*, print or cause to be written—*or*, printed a circular—*or*, notice—*or*, advertisement—*or*, gave information orally—stating when—*or*, where—*or*, how—*or*, of whom—*or*, by what means] a certain obscene and indecent book [*describing it*—*or*, magazine—*or*, pamphlet—*or*, newspaper—*or*; story-paper—*or*, writing—*or*, paper—*or*, picture—*or*, drawing—*or*, photograph—*or*, article—*or*, instrument of indecent or immoral use], in violation of the statutes in such case made and provided, and especially of section 317 of the Penal Code.

Wherefore deponent prays that the said John Doe may be arrested and dealt with according to law.

Sworn to before me, this
day of , 188 .

FORM NO. 29.

Information for Sale of Criminal Literature to Minor.

(Sec. 317, Subd. 2.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, {
City and County of New York, } ss.:

 , of Number , street, in said city, being
duly sworn, deposes and says, that on the day of ,
188 , at No. , street, in said city of New York, one
John Roe did then and there unlawfully and willfully sell [*or*,
lend—*or*, give away—*or*, show,—*or*, have in his possession with
intent to sell or give away—*or*, to show—*or*, advertise,—*or*, offer
for loan—*or*, gift—*or*, sale—*or*, distribution] to one James Doe
[now present], the said James Doe being then and there a minor
child, to wit, of the age of years, a certain book [*describing*
it—*or*, pamphlet—*or*, magazine—*or*, newspaper—*or*, printed pa-
per], which said book [*or*, pamphlet—*etc.*] was then and there
devoted to the publication and principally made up of criminal
news [*or*, police reports—*or*, accounts of criminal deeds,—*or*, pic-
tures and stories of deeds of bloodshed—*or*, lust—*or*, crime],
in violation of the statutes in such case made and provided,
and especially of section 317 of the Penal Code.

Wherefore deponent prays that the said John Roe may be arrested and dealt with according to law.

Sworn to before me, this
day of , 188 .

FORM NO. 30.

Information for Exhibiting Obscene or Criminal Literature within View of Minor.

(Sec. 317, Subd. 3.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, {
 City and County of New York, } ss.:

, of Number , street, in said city, being duly sworn, deposes and says, that on the day of , 188 . at No. , street, in said city of New York, one John Roe did unlawfully and willfully exhibit then and there, the same being a street or highway [*or*, other place], within the view [*or*, which might be within the view] of any minor child, and especially of James Doe [now present], the said James Doe being then and there a minor child, to wit, of the age of years, a certain obscene and indecent book [*describing it—or*, magazine—etc., as in Forms Nos. 28 and 29], in violation of the statutes in such case made and provided, and especially of section 317 of the Penal Code.

Wherefore deponent prays that the said John Roe may be arrested and dealt with according to law.

Sworn to before me, this
 day of , 188 .

FORM NO. 31.

Information for Hiring Minor Child to Sell, etc., Obscene or Criminal Literature.

(Sec. 317, Subd. 4.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, {
 City and County of New York, } ss.:

, of Number , street, in said city, being duly sworn, deposes and says, that on the day of , 188 , at No. , street, in said city of New York, one John Roe did then and there unlawfully and willfully hire [*or*, use—*or*, employ] one James Doe [now present], the said James Doe being then and there a minor child of the age of years, to sell [*or*, give away—*or*, distribute] [*or*, then and there having the care, custody, and control of one James Doe, the said James Doe being then and there a minor child of the age of years, did permit said child to sell—*or*, give away—*or*, distribute] a certain obscene and indecent book [*describing it—or*, magazine—etc.,

as in Forms Nos. 28 and 29], in violation of the statutes in such case made and provided, and especially of section 317 of the Penal Code.

Wherefore deponent prays that the said John Roe may be arrested and dealt with according to law.

Sworn to before me, this
day of , 188 .

FORM NO. 32.

Information against a Person for Selling Firearms to Minor.

(Sec. 409.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, }
City and County of New York, } ss.:

, of Number , street, in said city, being duly sworn, deposes and says, that on the day of , 188 , at No. , street, in said city of New York, one John Roe did then and there unlawfully and willfully, without the written consent of a police magistrate, sell [*or, give*] a certain pistol [*or other firearm, describing it*] to one James Doe [now present], the said James Doe then and there being a person under the age of eighteen years, to wit, of the age of years, in violation of the statutes in such case made and provided, and especially of section 409 of the Penal Code.

Wherefore deponent prays that the said John Roe may be arrested and dealt with according to law.

Sworn to before me, this
day of , 188 .

FORM NO. 33.

Information against Minor for Carrying Firearms.

(Sec. 410.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, }
City and County of New York, } ss.:

, of Number , street, in said city, being duly sworn, deposes and says, that on the day of , 188 , at No. , street, in said city of New York, one John Roe [now present], then and there being under the age of eighteen

years, to wit, of the age of years, did then and there unlawfully and willfully have [*or, carry—or, have in his possession*] therein, the same being a public street [*or, highway—or, place*] in said city, without a written license from a police magistrate of said city, a certain pistol [*or other firearm, describing it*], and that said John Roe then and there did not have [*or, carry—or, have in his possession*] said pistol [*or other firearm*] in the regular and ordinary transportation of firearms as merchandise, or for use without the city limits, in violation of the statutes in such case made and provided, and especially of section 410 of the Penal Code.

Wherefore deponent prays that the said John Roe may be arrested and dealt with according to law.

Sworn to before me, this
day of , 188 .

FORM NO. 34.

Information against Person neglecting to restrain Child from collecting Refuse, etc.

(Laws of 1877, Chap. 428, Sec. 2, as amended by Laws of 1881, Chap. 496.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, {
City and County of New York, } ss.:

 , of Number street, in said city, being duly sworn, deposes and says, that on the day of , 188 , at No. street, in said city of New York, one John Roe then and there having the custody of a certain child called James Doe [now present], the said child being under the age of fourteen years, to wit, of the age of years, did then and there unlawfully and willfully permit [*or, neglect to restrain*] said child from begging [*or, gathering—or, picking—or, sorting—of rags,—or, from collecting cigar stumps—or, bones—or, refuse from markets*], which said child was then and there by deponent found engaged in such occupation or business, in violation of the statutes in such case made and provided, and especially of Chapter 428 of the Laws of 1877, as amended by Chapter 496 of the Laws of 1881, and of Section 291 of the Penal Code.

Wherefore deponent prays that the said John Roe may be arrested and dealt with according to law.

Sworn to before me, this
day of , 188 .

FORM NO. 35.

Information for Sale of Beer, etc., to Minor under Fourteen.

(Laws of 1877, Chap. 420.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, }
 City and County of New York, } ss.:

, of Number , street, in said city, being duly sworn, deposes and says, that on the day of , 188 , at No. , street, in said city of New York, one John Roe did then and there personally [*or*, by his wife—*or*, servant—*or*, employe—*or*, agent,—to wit, Mary Roe] unlawfully and willfully sell beer [*or*, ale—*or*, wine—*or*, strong or spirituous liquor commonly known as], to wit, , to one James Doe [now present], the said James Doe being then and there a minor under the age of fourteen years, to wit, of the age of years, and that the said John Roe then and there knew [*or*, had reason to believe] that such minor was then and there under the age of fourteen years, in violation of the statutes in such case made and provided, and especially of Chapter 420 of the Laws of 1877.

Wherefore deponent prays that the said John Roe may be arrested and dealt with according to law.

Sworn to before me, this
 day of , 188 .

FORM NO. 36.

Information for Fermitting Minor Child to Ride on Street Car, not being a Passenger.

(Laws of 1880, Chap. 585.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, }
 City and County of New York, } ss.:

, of Number , street, in said city, being duly sworn, deposes and says, that on the day of , 188 , at No. , street, in said city of New York, one John Roe, the said John Roe then and there being the parent [*or*, guardian] of a certain minor child called James Roe [now present], did then and there unlawfully and willfully permit said child to ride upon [*or*, play upon] the steps [*or*, platform] of a certain railroad car drawn by steam, to wit, [*or*, of a certain omnibus—*or*, street car—*or other vehicle, describing it*—such omnibus—*or*, street car—*or other vehicle*—being then and there drawn

by horses], the said child then and there not being a passenger, in violation of the statutes in such case made and provided, and especially of Chapter 585 of the Laws of 1880.

Wherefore deponent prays that the said John Roe may be arrested and dealt with according to law.

Sworn to before me, this
day of , 188 .

FORM NO. 37.

Information against Minor Child Riding on a Street Car, not being a Passenger.

(Laws of 1880, Chap. 585.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, }
City and County of New York, } ss.:

, of Number , street, in said city, being duly sworn, deposes and says, that on the day of , 188 , at No. , street, in said city of New York, one John Roe [now present], the said John Roe being then and there a minor child, to wit, of the age of years, did then and there, not being a passenger, ride upon [*or*, play upon] the steps [*or*, platform] of a certain railroad car drawn by steam, to wit, [*or*, of a certain omnibus—*or*, street car—*or other vehicle, describing it*,—such omnibus—*or*, street car—*or other vehicle, describing it*—being then and there drawn by horses], in violation of the statutes in such case made and provided, and especially of Chapter 585 of the Laws of 1880.

Wherefore deponent prays that the said John Roe may be arrested and dealt with according to law.

Sworn to before me, this
day of , 188 .

FORM NO. 38.

Warrant of Arrest.

DISTRICT POLICE COURT.

STATE OF NEW YORK, }
City and County of New York, } ss.:

In the name of the People of the State of New York.

To the sheriff of the city and county of New York and his deputies; to the superintendent of the municipal police of the

city of New York; to all the captains and officers of said municipal police, and to each of them:

Whereas, Information upon oath has been this day laid before me by _____, that the crime [*or*, misdemeanor] of [*designating it*] has been committed, and accusing John Roe thereof.

You are therefor commanded forthwith to arrest the above named John Roe, and bring him before me at [*naming the place*], or in case of my absence or inability to act, before the nearest or most accessible magistrate in this county.

Given under my hand, at the City and County
of New York, this _____ day of _____, 188 .

Police Justice.

FORM NO. 39.

Warrant as to Female under Sixteen Years Living in House of Prostitution.

(Laws of 1881, Chap. 496, Sec. 3.)

DISTRICT POLICE COURT.

STATE OF NEW YORK, }
City and County of New York, } ss.:

In the name of the People of the State of New York.

To the sheriff of the city and county of New York and his deputies; to the superintendent of the municipal police of the city of New York; to all the captains and officers of said municipal police, and to each of them:

Whereas, _____ has made complaint under oath to and before me that he has, and it further appearing in my judgment that he has just and reasonable cause to suspect, and does suspect, that a certain female child called Mary Roe, which said child is under the age of sixteen years, to wit, of the age of _____ years, is now, this _____ day of _____, 188 , living and is detained and kept unlawfully in a certain house and place known as No. _____, street, in said city, for the purpose of prostitution:

Now, therefore, I, _____, police justice, do authorize you to enter and search the said house and place within said city, known as No. _____, street, and to arrest and bring any such child found therein, together with any and all persons occupying such house or place, or in charge thereof, by whatsoever names they may be known or called, before me to be dealt with according to law.

Given under my hand, at the City and County
of New York, this _____ day of _____, 188 .

Police Justice.

FORM NO. 40.

Final Commitment.

DISTRICT POLICE COURT.

STATE OF NEW YORK, }
 City and County of New York, } ss.:

By _____, Esquire, one of the police justices
 for the city of New York.

To _____, one of the policemen of the city of New York :

Whereas, _____, a _____ child, actually and apparently under the age of sixteen years, to wit, of the age of _____ years, was heretofore, on the _____ day of _____, 188____, duly brought before me for examination, charged before me upon the allegation under oath of _____, that he, the said child, _____ on the day of _____, 188____, at the city and county aforesaid [*state facts as alleged in information*], in violation of the provisions of the statute in such case made and provided, and in further violation of the provisions of law in that behalf embraced and set forth in the following laws of this State, to wit, "The New York City Consolidation Act of eighteen hundred and eighty-two," being Chapter 410 of the Laws of 1882, and the acts amendatory thereof, and the Penal Code of the State of New York, and the Code of Criminal Procedure of the State of New York;

And, having in due form of law examined the said complainant and the witnesses before me produced, and also the said child, _____, who was duly produced for my personal inspection pursuant to the provisions of law aforesaid, and it appearing and having been proven to me to my satisfaction, by competent testimony and evidence, that the material allegations and matters set forth and charged in the complaint are true, and that the said child, _____, is, and on the day last aforesaid was, actually and apparently under the age of sixteen years, to wit, of the age of _____ years, and on the _____ day of _____, 188____, at the city and county aforesaid [*state facts as alleged in information*], in violation of the statutes and laws aforesaid;

And, it having been further proved to my satisfaction, by competent testimony and evidence, _____ and by the examination of the child, that such child is embraced within the provisions of the laws aforesaid, and especially within the provisions of _____, and that by reason of the neglect, habitual drunkenness, and other vicious habits of the parents, the lawful guardians of such child, it is expedient and desirable for the welfare of the child that said persons, to wit, the said _____, should be deprived of its custody hereafter, and that such child is a proper object for the care and instruction of the society and corporation hereinafter named:

Now, therefore, in the name of the people of the State of New York, you are hereby commanded immediately to take charge of the said , a child actually and apparently under the age of sixteen years, to wit, of the age of years, who has been proved to me, by competent testimony and evidence, to be embraced within the provisions of the laws aforesaid, and especially within the provisions of , and who also appears to my satisfaction to be a proper object for the care of the corporation created by an act entitled "An act ,," and known as " ,," and to deliver the said child without delay to the said corporation at its house of reception in this city , to which corporation such child is hereby committed, to be and remain under the guardianship of its directors and managers until therefrom discharged in manner prescribed by law. And for so doing this shall be your sufficient warrant.

Given under my hand and seal, at the City
of New York, this day of , 188 .

[SEAL.]

Police Justice.

FORM No. 41.

Temporary Commitment of Child Witness.

DISTRICT POLICE COURT.

STATE OF NEW YORK, }
City and County of New York, } ss.:

By , Esquire, one of the police justices
for the city of New York.

To , one of the policemen of the city of New York:

Whereas, a child, actually and apparently under the age of sixteen years, to wit, of the age of years, was heretofore, on the day of , 188 , duly brought before me for examination, charged before me upon the allegation under oath of , that he, the said child, , was and is a necessary and material witness on behalf of the people of the State of New York, in a certain criminal case now pending in the Court of Sessions of, in and for the city and county of New York, entitled *The People vs. James Roe*, wherein the said James Roe is charged with the crime of , under Section of the Penal Code of said State in that he, the said James Roe [*here state the facts constituting the crime charged*];

And, having in due form of law examined the said affiant, and also the said child, , who was duly produced for my personal inspection, and it appearing and having been proven to me to my satisfaction, that the material allegations and matters

set forth in said affidavit are true, and that the said child , is, and on the day last aforesaid was, actually and apparently under the age of sixteen years, to wit, of the age of years, and is a necessary and material witness for the people on the trial of the aforesaid criminal case, and is within the provisions of the statute in such case made and provided, and especially of Section 291 of the Penal Code; and the said child having been by me duly held as a witness for the people, to appear on the trial of the criminal case aforesaid :

Now, therefore, in the name of the people of the State of New York, you are hereby commanded immediately to take charge of the said child, , and to deliver the said child to the corporation known as “ ,” created by an act entitled, “An act ,” and which is an institution authorized by law to receive children on final commitment and to have compensation therefor from the city authorities, to which institution said child is hereby TEMPORARILY COMMITTED to appear as a witness on the trial of the criminal case aforesaid, to be and remain under the guardianship of its directors and managers until therefrom discharged in manner prescribed by law. And for so doing this shall be your sufficient warrant.

Given under my hand and seal at the City of

New York, this day of , 188 .

[SEAL.]

Police Justice.

FORM No. 42.

Petition for Warrant.

(Code Civ. Pro. Sec. 2054.)

To the Honorable Supreme Court of the State of New York :

The petition of “The New York Society for the Prevention of Cruelty to Children,” respectfully shows :

That it is a corporation duly incorporated and existing under and in pursuance of Chapter 130 of the Laws of 1875 of the State of New York.

That a certain male child, called , aged about years, is unlawfully imprisoned, detained, confined, and restrained of liberty, and is held in illegal confinement and custody within this State by , at and within the premises , in the city and county of New York. That such person not the lawful guardian of such child, nor entitled to, nor fit, nor proper to be intrusted with, its custody, education, care, or control. That such child has, daily and fre-

quently during some time past, been, and now is, by the said , unlawfully and illegally assaulted, and severely whipped, beaten, struck, and bruised, without any just or lawful provocation or cause therefor. That the marks of such bruises and beatings will appear plainly visible upon the body and limbs of the said child at the present time upon inspection thereof.

All which your petitioner is prepared to substantiate by the testimony of various persons, many of whom reside immediately adjacent to the premises wherein such child is confined, ready to be produced by your petitioner as witnesses in proof of the allegations and statements in this petition set forth and contained.

Your petitioner further states, that he is able to show by the witnesses aforesaid, and that there is good reason to believe from the facts above stated, and your petitioner does believe, that the said child will be carried out of the State by, or will suffer some irreparable injury at the hands of the said , and be further cruelly beaten, and perhaps maimed, before such child can be relieved by the issuing of a *habeas corpus* or *certiorari*.

Your petitioner therefore prays that a warrant may be immediately issued, pursuant to the statute in such case made and provided, and directed to such sheriff, constable, or other person as may be deemed proper, and commanding such officer or person to take such child, and forthwith to bring such child before you, to be dealt with according to law: And further to arrest and bring before you the said having such child in custody, to be dealt with according to law, pursuant to the statute in such case made and provided.

Dated, New York, , 188 .

The New York Society for the Prevention of Cruelty to Children, by

Superintendent.

CITY AND COUNTY OF NEW YORK, ss.:

, being duly sworn, says: That he is an officer, to wit, the superintendent of The New York Society for the Prevention of Cruelty to Children, the petitioner above named, and that the foregoing petition is true of his own knowledge, except as to the matters which are therein stated to be alleged on information and belief, and that as to those matters he believes it to be true.

Sworn to before me, this }
day of , 188 , }

FORM NO. 43.

Warrant.

(Code Civ. Pro. Sec. 2054.)

SUPREME COURT OF THE STATE OF NEW YORK.

STATE OF NEW YORK, }
 City and County of New York, } ss.:

To the sheriff of the city and county of New York and his deputies; to the superintendent of the municipal police of the city of New York, and to all the captains and officers of said municipal police, and to any constable of the said city:

Whereas, "The New York Society for the Prevention of Cruelty to Children," a corporation duly incorporated and existing under and in pursuance of the laws of this State, has applied to this court for a warrant to take a certain child called _____, alleged to be illegally confined by and in the custody of _____, at and within the premises _____, in the city and county of New York.

And whereas, it appears from the proofs before this court on such application, that such child is a _____ male child aged about _____ years and called _____, and is held in illegal confinement and custody by _____, at and within the premises aforesaid; and that such person _____ not _____ the lawful guardian of such child, nor entitled to, nor fit nor proper to be intrusted with its custody, education, care, or control; and that such child has, daily and frequently during some time past, been, and now is, by the said _____, unlawfully and illegally assaulted, and severely whipped, beaten, struck, and bruised without any just or lawful provocation or cause therefor; and that the marks of such bruises and beatings appear plainly visible upon the body and limbs of the said child at the present time, upon inspection thereof; and that _____, and that the said child will be carried out of the State by, or will suffer some irreparable injury at the hands of, the said _____, and be further cruelly beaten, and perhaps maimed, before such child can be relieved by the issuing of a *habeas corpus* or *certiorari*.

From which facts it satisfactorily appears to this court that the said child _____, is held in illegal confinement and custody by the said _____, and that there is good reason to believe that such child will be carried out of the State or suffer some irreparable injury before such child can be relieved by the issuing of a *habeas corpus* or *certiorari*.

And the facts further appearing to this court, sufficient to justify the arrest of the said having such child in custody, as for a criminal offense committed in the taking and detaining of such child,

These are therefore, in the name of the People of the State of New York, to authorize and command you immediately to take the said child _____, and also to arrest the said _____, and bring them, and each of them, before this court without delay, to be dealt with according to law.

Witness, Hon. _____, a Justice of the Supreme Court of the State of New York, at the County Court House in the city of New York, on the _____ day of _____, 188 .

, Justice.

By the court,
L. S.

APPENDIX.

The following named institutions, located in New York city, receive on commitment :

American Female Guardian Society.—Incorporated under chapter 244, Laws of 1849; amended by chapter 249, Laws of 1857; re-enacted by sections 1602-1607, chapter 410, Laws of 1882. Protestant. Receives boys from 2 to 10 years of age, and girls from 2 to 14 years of age. Home, No. 32 East 30th street.

Association for Befriending Children and Young Girls.—Incorporated under chapter 319, Laws of 1848, as amended. Roman Catholic. Receives girls from 3 to 18 years of age. Institution, No. 136 Second avenue.

The Association for the Benefit of Colored Orphans.—Incorporated under chapter 232, Laws of 1838; amended by chapter 306, Laws of 1872. Protestant. Receives boys and girls from 2 up to 10 years of age. Asylum, 143d street and Tenth avenue.

Asylum of St. Vincent de Paul.—Incorporated November 5th, 1868, under chapter 319, Laws of 1848, as amended. Roman Catholic. Receives destitute and unprotected orphans and half-orphan children of both sexes, of French birth or parentage, and others from 3 up to 12 years of age. Asylum, No. 215 West 39th street.

The Children's Fold.—Incorporated under chapter 506, Laws of 1874. Protestant. Receives boys and girls from 3 to 10 years of age. Institution, corner of 93d street and Broadway.

Commissioners of Charities and Corrections.—Incorporated under chapter 510, Laws of 1866, as amended; re-enacted by sections 385-423, of chapter 410, Laws of 1882. Receives in Children's Nursery infants, and in Hospital boys and girls of all ages who require medical treatment. Office, No. 66 Third avenue; Hospital and Nursery on Randall's Island.

Commissioners of Emigration.—Incorporated under an Act passed May 5th, 1847, as amended; re-enacted by sections 2032–2068, of chapter 410, Laws of 1882. Receives all children who have not been in the United States over one year and who have been landed in the port of New York city. Office of Reception, Castle Garden; Institution, Ward's Island.

Dominican Convent of Our Lady of the Rosary.—Incorporated under chapter 319, Laws of 1848, as amended. Roman Catholic. Receives boys from 2 to 6 years, and girls from 2 to 14 years of age. Institution, No. 329 East 63d street.

Five Points House of Industry.—Incorporated March 11th, 1854, under chapter 319, Laws of 1848, as amended. Protestant. Receives boys and girls from 4 to 14 years of age. Office, No. 155 Worth street.

The Five Points Mission.—See Ladies Home Missionary Society of the Methodist Episcopal Church, page 79, *infra*.

The Foundling Asylum of the Sisters of Charity of the City of New York.—Incorporated October 9th, 1869, under chapter 319, Laws of 1848, as amended. (See also chapter 635, Laws of 1872.) Roman Catholic. Receives boys and girls (foundlings) under 2 years of age. Office and Asylum, 68th street and Third avenue.

Hebrew Benevolent and Orphan Asylum of the City of New York.—Incorporated under chapter 14, Laws of 1832; amended by chapter 21, Laws of 1870; re-enacted by section 1625, of chapter 410, Laws of 1882. Hebrew. Receives orphan and half-orphan and indigent boys and girls under 13 years of age. Asylum, Tenth avenue, between 136th and 138th streets.

The Hebrew Sheltering Guardian Society of New York.—Incorporated under chapter 319, Laws of 1848, as amended. Hebrew. Receives boys from 2 up to 10 years of age, and girls from 2 up to 14. Office and Institution, southwest corner First avenue and 57th street.

House of the Good Shepherd.—Incorporated November 1st, 1858, under chapter 319, Laws of 1848, amended. Roman Catholic. Reformatory for women and girls. House, 89th and 90th streets and East River.

House of Mercy.—Incorporated February 23d, 1855, under chapter 319, Laws of 1848, as amended. Protestant. Reformatory for women and girls. House, 86th street and North River.

The House of Refuge.—See The Managers of the Society for the Reformation of Juvenile Delinquents, *infra*.

Institution of Mercy.—Incorporated under chapter 319, Laws of 1848, as amended. Roman Catholic. Receives girls from 4 to 14 years of age. Office and Institution, No. 35 East Houston street; Branch, St. Joseph's Home, 81st street and Fourth avenue.

The Ladies Deborah Nursery and Child's Protectory.—Incorporated under chapter 319, Laws of 1848, as amended. Hebrew. Receives boys and girls from 2 up to 14 years of age. Office and Institution, No. 95 East Broadway.

Ladies Home Missionary Society of the Methodist Episcopal Church (known as "The Five Points Mission").—Incorporated by Act passed March 20th, 1856. Protestant. Receives boys and girls from 3 up to 14 years of age. Office, No. 61 Park street.

The Managers of the Society for the Reformation of Juvenile Delinquents (known as "The House of Refuge").—Incorporated under chapter 126, Laws of 1824, as amended; re-enacted by sections 1594-1601, chapter 410, Laws of 1882. Reformatory for boys and girls between the ages of 12 and 16 years. House, Randall's Island.

Missionary Sisters of the Third Order of St. Francis.—Incorporated under chapter 319, Laws of 1848, as amended. Roman Catholic. Receives boys from 2 up to 5 years of age, and girls from 2 up to 14 years of age. House of Reception, No. 143 West 31st street. Institution, Peekskill, N. Y.

Mission of the Immaculate Virgin for the Protection of Homeless and Destitute Children.—Incorporated under Act passed May 23d, 1877. Roman Catholic. Receives boys from 3 to 14 years of age. Home, No. 2 Lafayette Place.

New York Catholic Protectory.—Incorporated under chapter 448, Laws of 1863, as amended, and re-enacted by sections 1618-1624, chapter 410, Laws of 1882. Roman Catholic. Receives boys and girls from 7 to 14 years of age. Office of Reception, No. 415 Broome street; Protectory, Westchester, New York.

New York Infant Asylum.—Incorporated under chapter 106, Laws of 1865; re-enacted by sections 1627-1632 of chapter 410, Laws of 1882. Protestant. Receives boys and girls (foundlings) under 2 years of age. House of Reception, 61st street and

Tenth avenue; Homes, Mount Vernon, N. Y., and Flushing, L. I.

New York Juvenile Asylum.—Incorporated under chapter 332, Laws of 1851, as amended, and re-enacted by sections 1608–1617, chapter 410, Laws of 1882. Protestant. Receives boys and girls from 7 to 14 years of age. House of Reception, No. 61 West 13th street; Asylum, 176th street and Tenth avenue.

The New York Magdalen Benevolent Society.—Incorporated October 31st, 1851, under chapter 319, Laws of 1848, as amended. Protestant. Reformatory for women and girls. Asylum, 88th street, between Madison and Fifth avenues.

The Orphan Asylum Society in the City of New York.—Incorporated under chapter 159, Laws 1807, amended by chapter 372, Laws of 1872. Protestant. Receives boys and girls from 3 to 10 years of age. Asylum, West 73d street, between Eleventh avenue and Riverside Drive. Executive Committee receives all applications for admission on Thursday, between 10 A. M. and 12 M., at No. 29 East 29th street.

Sisters of the Order of St. Dominick.—Incorporated under Act passed December 20th, 1869. Roman Catholic. Receives girls from 2 up to 14 years of age. House of Reception, No. 141 Second street; Asylum, at Blauveltville, N. Y.

St. Ann's Home for Destitute Children.—Incorporated November 18th, 1879, under chapter 319, Laws of 1848, as amended. Roman Catholic. Receives boys from 3 to 7 years of age, and girls from 3 to 14 years of age. Asylum, 90th street and East River.

St. James' Home.—Incorporated 1883, under chapter 319, Laws of 1848, as amended. Roman Catholic. Receives girls from 2 up to 14 years of age. Home, No. 26 James street.

St. Joseph's Asylum in the City of New York.—Incorporated under chapter 378, Laws of 1859. Roman Catholic. Receives boys and girls under 14 years of age. Asylum, corner of 89th street and Avenue A.

St. Stephen's Home for Children.—Incorporated in 1875, under chapter 319, Laws of 1848, as amended. Roman Catholic. Receives boys and girls from 2 up to 14 years of age. Home, Nos. 145 and 147 East 28th street, and 138 East 29th street.

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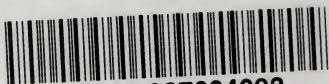
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